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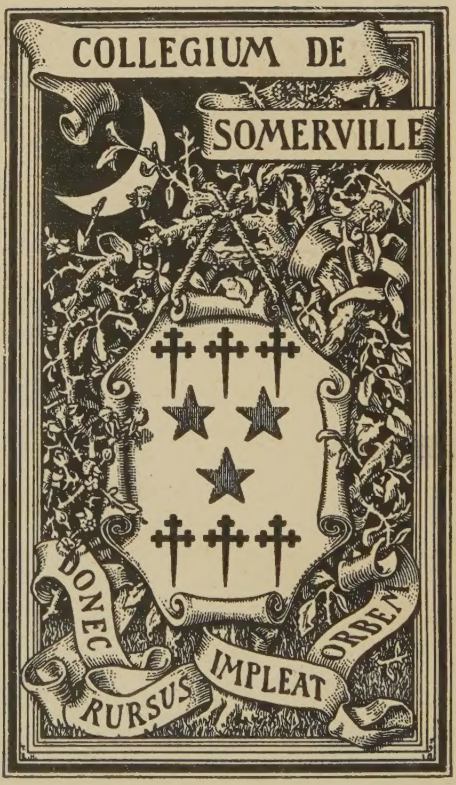

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EDITED WITH AN INTRODUCTION BY

ARTHUR PERCIVAL NEWTON

M.A., D.Lit., B.Sc., F.S.A.

RHODES PROFESSOR OF IMPERIAL HISTORY IN THE UNIVERSITY OF LONDON

IN TWO VOLUMES

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PREFACE.

THE purpose of the present work is fully explained in the Introduction, and it is here only necessary to express regret that it has been impossible to make a more comprehensive selection from the voluminous mass of official material that is available to illustrate the process of South African consolidation. There is room for wide differences of opinion as to what to include and what to reject, and it is unlikely that any two persons would agree in every particular. My plea in justification of my choice is that the documents here printed seem to me to have a thread of connection and to do something to illumine an episode of the history of the British Empire that has as yet been too little studied in England. Many of the passages might easily be replaced by others of equal aptness, but certain of the principal documents must be printed entire, and these take up so much space that what remains is very difficult to fill. The many extracts from British Parliamentary Papers that are included in these volumes have been reprinted with the permission of The Controller of H.M. Stationery Office, to whom I desire to record my acknowledgments. The source of

every extract that is printed is clearly shown at the head, so as to facilitate reference to its context, and my debt will be best discharged to the editors of the works from which they are taken by the students who are guided to read further. The collection should be supplemented by two books concerning the events of the Convention period, Mr. R. H. Brand's "The Union of South Africa"[1] and Sir Edgar Walton's "Inner History of the South African Convention."[2] Each was written by an actor in the story and both are essential to its study. My thanks are due to two students of my seminar at the Institute of Historical Research, Miss Dora Howard, B.A., and Mr. W. C. Palmer, B.A., who have assisted me in the transcription of documents.

ARTHUR PERCIVAL NEWTON.

UNIVERSITY OF LONDON,
KING'S COLLEGE,
February, 1924.

[1] Brand, R. H., "The Union of South Africa." Oxford, 1909.

[2] Walton, Edgar, "The Inner History of the South African Convention." Capetown, 1912.

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INTRODUCTION.

History is concerned with the recording of human activities, and in its most rudimentary form it is the affair of the annalist or chronicler who does little more than set down an account of events in the order of their occurrence. His choice between the multitude of happenings is guided by his estimate of their comparative interest, and he makes little or no attempt to gauge their significance or trace their connection. He records successively without change of scale the devastation of a province, the appearance of a comet, the birth of a monster and some atrocious crime, and all seem of equal importance in his pages. Narratives showing little more discrimination sometimes lay claim to be history even at the present day, but they should rather be classed with the work of those modern chroniclers who record the events of the day just as they think they will be of immediate interest to their readers. The real work of the historian is radically different. It is concerned not with the mere sequence of events but with a theme, some definite tracing of cause and effect. It relates to ideas rather than to mere facts, for though facts are essential and the ensuring of their accuracy ought to be one of the closest pre-occupations of the historian, only those facts concern him that shape themselves round his idea or chain of ideas. His purpose may be infinitely various—to

elucidate the growth of a community or an institution, to glorify a nation or a Church, to justify or castigate the doings of a party, or to investigate the influence of some great concept of human relations—whatever it may be, the historian will see in it some evolutionary process and his idea will dominate the arrangement of his facts. He approaches the heterogeneous mass of information that is available for his chosen period with the definite aim of sifting out relevant facts, and he therefore must engage simultaneously in three closely related actions—the search for promising material, the selection from it of the facts required, and, most difficult of all, the correlation of those facts and their linking together as parts of a single process. The essential faculty for all these actions is imagination, or—to use a word less capable of misunderstanding,—insight, and the disciplining and encouragement of this faculty are perhaps the most important parts of the training of a historical student.

A large part of the historical curriculum must necessarily be concerned with the imparting of information, that is to say, with the results of the labours of past historians. Before he can profitably proceed further, the pupil must be equipped with some knowledge of the broad outlines of political development, the course of great events and the general lines of historical thinking. But at some point of the course it is well to cease the inpouring of other men's ideas, to sink the pupil in the student and turn him loose into the wilderness of irrelevance that provides the stuff out of which history must be extracted. Let the student try his prentice hand upon this raw material, the documents that have come down to us from the past; let him essay the historian's task and endeavour to digest some history of his own finding, instead of continuing to

devote his whole attention to the absorption of history ready digested by others. To some teachers the ideal way of carrying this plan into effect has appeared to be to require from undergraduates as a qualification for the degree some evidence of actual historical research; but to others the time at a student's disposal among his many other tasks seems to be insufficient to make this really practicable, and a compromise is adopted. Training in the search for original historical material is left to the post-graduate stage, and the student's task is simplified by directing his investigation to one of a limited number of "Special Subjects" for each of which a nucleus collection of historical material is provided. The documents on which he is to work must be readily accessible, and, since they must necessarily be limited in bulk, they must have undergone some preliminary selection and separation from the mass of writings that are available. If the selection has been suitably made, what is placed before the student will be a fair sample of the various types of documents that are likely to be met with in a fuller exploration of his chosen field, and in their study, though he will not really be engaged in original historical work, he will be learning the use of the historian's tools in much the same way that a recruit first learns his trade of soldiering, not in a real campaign, but in autumn manœuvres.

The collection of historical material that is here assembled, is designed to provide a working ground for students who have chosen to specialise in the more recent period of modern history, and are directing their attention more particularly to the development of the British Empire. It deals with the latest application of the federal principle as a remedy for acute difficulties of government in a portion of the King's realms and with the movements that led up to it. The South Africa

Act of 1909 was the result of a long historical process, and gave to the South African nation not a federal but a unified constitution. Nevertheless there is evidence in every part of it of the results of the experience of earlier federation builders, and it is in their labours that some of the most important roots of the Union must be sought. The student must therefore have some familiarity with two particular historical fields to assist him in his work upon these documents. He must know how South African affairs came to be involved in so much difficulty that a drastic political remedy was necessary; he must study the nature of the remedy and the conditions that have governed its successful application in other cases. He will find that its elaboration has been closely coincident with the achievement of political responsibility by the communities to which it has been applied, and he will come to realise that in the British Empire federation and "Responsible Government" have had a common history with which the whole political development of the self-governing Dominions is linked up. His work, therefore, is concerned not with a mere incident, however important, but with the main thread of the Empire's story. When the student has some knowledge of the ills to be dealt with and the nature of the remedy, he can proceed to his appointed task, an investigation of the history of the attempts to apply the remedy to the cure of the ills.

The background of the story is the general history of the British Empire and of South Africa in particular. This may be studied in any of the many narrative histories that have been written, but attention may be specially directed to Sir Charles Lucas' summary in his "Historical Geography" [1] series, and to the articles by Mr. F. R.

[1] Lucas, C. P., "An Historical Geography of the British Colonies," Vol. IV, Parts I and II, "South Africa" (new edition). Oxford, 1915.

Cana on South African history in the Eleventh Edition of the "Encyclopædia Britannica."[1] For guidance to other available books reference may be made in the first instance to my "Select List of Books relating to the History of the British Empire Overseas,"[2] where fuller bibliographies are mentioned and some critical comments on various narrative histories appear. The history of the development of Federalism must be studied in the various federal and unified constitutions that I have reprinted with a Historical Introduction in the companion volume to the present work.[3] In that volume the student will also find various documents relating to Responsible Government which describe the device in the words of those who first applied it in colonial affairs, and therefore are of direct interest to the subject in hand. The documents now reprinted are nothing more than a small selection from the very considerable mass of material of all kinds that exists in print concerning the events that led up to unification. No attempt has been made to explore manuscript sources, though this task will be essential before any definitive history of the movements for closer union in South Africa can be undertaken. The documents have been selected to provide a fair sample of one side of the historical material in printed documents—the official. It may be complained that this is to neglect the vital evidence of struggle and of human perplexities for the dry-as-dust pages of official despatches and the verbiage of legal instruments. In any ideal collection evidence of both

[1] Cape Colony, Transvaal, Orange Free State, South Africa—History.

[2] Newton, A. P., "A Select List of Books relating to the History of the British Empire Overseas." Historical Association Leaflet No. 46 (revised).

[3] Newton, A. P., "Federal and Unified Constitutions," University of London Historical Series, No. ii. Longmans, 1923.

sorts should, of course, be included, but where conditions of space necessarily enforce a choice, there can be no doubt whatever that that choice must be in favour of the official material. It would be extremely interesting to reprint long extracts from controversial pamphlets, electioneering literature, private correspondence and the newspaper press, but space absolutely forbids, and to the student such material is confusing and useless until he is certain of the main current of affairs. That accomplished, he can pass into the uncharted backwaters to find colour with which to fill in the hard outlines of his story. But even from the beginning he may be urged to read round his subject and not confine his attention solely to the prescribed documents. The official material affords few glimpses of the personalities of the actors in the struggle, but without some knowledge of this sort the subject is unnecessarily dull, and the successive steps that were taken are often inexplicable. History is made by men and not by automata, and an attempt to realise something of the personalities of men like Grey, Carnarvon, Molteno and Froude, and of the makers of the Union and their contemporaries like Rhodes and Hofmeyr, Botha, Merriman and Jameson, cannot fail to be repaid with a deeper understanding of the despatches that they penned or the speeches that they made.[1]

The documents selected relate in the main to political difficulties and developments; economic and labour conditions played a very important part in bringing about closer Union, but their detailed study is only accessory

[1] For the biographies of deceased statesmen reference should be made in the first instance to the "Dictionary of National Biography" and its Supplements. The lists of authorities given at the end of the articles will facilitate further reading. For the careers of living persons of eminence the most accessible source of information is to be found in the articles in the Eleventh Edition of the "Encyclopædia Britannica."

to that of the main line, which is political and constitutional. The attention devoted to economic matters in the propagandist and periodical literature of the time must not blind us to the fact that for the historian they are secondary and contributory causes to the working of deeper political causes which are the primary objects of his investigation. Native affairs are, of course, not included in this statement, though they often have an economic bearing. In the history of South Africa the native question is of fundamental political importance, and it must demand a very considerable share of the student's attention.

The most convenient order of arrangement for a miscellaneous collection of historical documents is undoubtedly chronological, and that plan is adopted here; but the student who patiently plods through the volumes page after page, will find himself at the end of his labours with a surfeit of "facts" but very little history. He should follow the example of the trained investigator and search his material rapidly for a point from which to take his departure backwards and forwards. Somewhere or other in a long official correspondence or a series of debates upon a subject there will usually be found a historical resumé of the events with which it is concerned and a succinct statement of the points at issue. The occasion on which this resumé was made often forms an excellent starting-point and the resumé itself an invaluable aid to find a way through the chronologically arranged material. A preliminary survey of the documents with the resumé at hand will permit of their arrangement in some logical order. The student will thus begin to discern the relationship of the documents with one another and hence be better prepared to appreciate the character of their contents.

It would be unprofitable and even harmful to attempt

to prescribe some one method of handling the material as the best, for after a time every capable student will evolve a method of his own. It is an essential feature of this sort of historical training to allow students to flounder about for themselves and not to try and hold them up from every tumble. It is only by experience that they will learn that the historian must make use of the method of "trial and error" much as do the physicist and the mathematician. There is only one fundamental difference. Their problems usually admit of exact solution, the historian's do not. He can merely arrive at a correlation of causes and effects by a balancing of probabilities, and his results will always admit of doubt. The mathematician, is dealing with abstractions, and he can make his facts as sharp-edged as he pleases, the historian with realities involving all sorts of unknown or only vaguely perceived factors, and none but the very simplest of his facts are definite and clear-cut. On the other hand, the terms employed by the historian or political scientist ought to be capable of fairly accurate definition like those of the lawyer, and one of the most important lessons a student will learn in the handling of official instruments such as are to be found in this collection, is that they are capable of exact interpretation. This is a difficult lesson to learn at first, for in working through a long series of historical documents the student will be baffled by his discovery that the implication of the terms employed changes as time goes on, and that a word of exact meaning in one official instrument may need a much wider or different interpretation in a similar document of a different period. This applies to some extent to comparatively simple terms like "colony" or "executive," but in relation to the more difficult phrases of political science like "responsibility," "sovereignty" or "federation"

the change of meaning with the lapse of time has been of cardinal importance. Historical evolution has taken place, and it is his realisation of the possibility of this that differentiates the interpretation of the historian from that of the constitutional lawyer who tends to read the meaning of the present day into the terms of earlier periods. The lawyer looks backward at documents from the standpoint that his own age has reached, the historian tries to imagine himself into the mental position of an earlier age so as to look forward at the meaning the writers are trying to express and the purpose they are aiming to achieve. To attain this mental attitude it is essential that the student shall do as much reading in the writings of his period as he finds it possible to accomplish.[1]

As a rule those who work on this collection will try first to construct a consecutive narrative of events from their reading, and this is the most obvious purpose for which the documents may be used. But if this be all he does, the student has missed many of the advantages to be derived from his training. He ought to try and perceive something of the growth of governmental institutions in his period, and he should endeavour to discover the different means that constitution-makers have invented to accomplish similar ends. The comparison of constitutions and of Acts of Parliament is a much sounder way of acquiring insight into the principles of political science than the absorption of

[1] Old newspapers are an admirable source in which to find background for a modern period, but their files are rarely accessible, and out-of-date editions of the big encyclopædias provide a passable substitute and are easier to get at. Every one should be advised as a relaxation from closer study to browse in two readily accessible sources, the contemporary volumes of "The Annual Register" and "Punch." They are to be found in most English libraries and well reflect the point of view of the time.

pages of text-books. It involves an active training of the critical faculty, and is not merely an addition to the memory drudgery with which the historical curriculum is sometimes taxed. The "special subject" will largely fail of its purpose, if it is regarded as something separate from the other parts of the student's work. At every turn he will find that they are in intimate contact, and just as he uses the knowledge gained from his lectures in English or European history to explain the setting of the facts he discovers in his investigations, so he will tend to choose from those facts his illustrations of the meaning and application of political ideas.

The history to be learned from a series of official documents is not only derived from the facts and statements that they contain, a study of their form is also of interest. In a civilised society the machinery of government takes action by means of written instruments, and these are preserved as records of the action, and so remain to become material for the historian. The records that are produced by one part of the governmental machinery in performing a particular action are all characterised by a certain structure of words within which only certain parts are variable to suit different cases. That is to say, these instruments have a "common form," and the study of this common form is of value as indicating something of the history of the institutions from which the documents emanate. The study is known as "Diplomatic." In simple governmental instruments like a jury summons, an election writ or the precept for a local rate the common form is, as a rule, printed and makes up almost the whole document, only a few variable particulars being inserted by hand, such as the date, place, person addressed and so on. In the most important governmental instruments like Acts of Parliament and Orders

in Council the effective and variable part makes up almost the whole document, but still it is fitted into a structure of common form and is thus recognisable as having authority. It is a frequent blunder on the part of inexperienced investigators to mistake for important material what is merely common form, and the student should, therefore, devote some attention to the classification of his documents according to their nature and independently of their effective contents. He will derive help in his task by consulting some work on Diplomatic such as Mr. Hubert Hall's Formula Books for English official documents.[1] As he studies the form of Letters Patent or of a Sign Manual he will see something of the way in which the doings of the *Curia* of the mediæval kings still have an influence upon our governmental methods, and how a democratic state carries on a large part of its business with the formulas of a personal monarchy.

The incidental benefit to be derived from the handling of a mass of historical material is very varied, and every student will profit by his training in his own way. He should think not only of what he is doing, but of how he is doing it so as to test his own "historic method" against that of professed historians. But behind and above all such incidental benefits to be derived from his training he will become interested in his subject for its own sake, for no one can fail to realise that in working through these documents he is in touch with evidence for vital things in our Imperial development. The events dealt with are not merely of local importance for South Africa, and their course is not influenced by happenings in the Sub-continent alone. The subject is an integral part of modern Imperial history, one eddy

[1] Hall, Hubert, "Formula Book of Diplomatic Documents." Cambridge, 1908.

in the current of the political progress of the English-speaking peoples that in the last century has influenced the whole world. As the student's insight deepens and his historical imagination quickens, so he will get behind the surface phrases and the irrelevances of his documents to the movements at work beneath. In the constitutions that he has studied as an introduction to the present volumes, he has marked the strivings of freedom-loving peoples towards responsibility and self-rule, their progressive emergence from the kindly but irksome tutelage of the Home Government, their relinquishment of the assistance afforded them during early colonial struggles, and their gradual adaptation of governmental machinery to fit their local circumstances. The process ultimately leads to the federation or union of contiguous colonies into a dominion, and this final stage is the one here to be studied in detail in a particular case.

Nowhere but in South Africa were there so many false starts, and nowhere such bitter controversy. The Imperial Government has been accused of every fault a ruler can display, from downright tyranny to meddlesome fussiness, the colonists of British stock of ingratitude, and on one side of neglect of native interests, on the other of a desire to advance them unduly. The men of Dutch descent have been stigmatised wholesale as wilfully blind to the necessity of progress and as obsessed with the narrowest of particularism. Such a welter of accusations should warn the student that he is not likely to arrive at historic truth by taking sides; he will be on safer ground if he stands quite aside from the controversy and tries sympathetically to appreciate the different points of view of all the parties concerned. It is the business of the historical investigator to investigate and endeavour to interpret, not to sit in judgment. The

men whose actions he is studying were in the vast majority of cases animated by worthy motives, and were doing their best according to their lights. They often blundered, and what they did produced results they had never foreseen; their devices were sometimes abortive and sometimes achieved success, but rarely along the exact lines that had been planned. Failure may be as important as success in the long run, and, if any historic equation can have a solution, it is certainly not to be arrived at by a simple process of addition and subtraction. There is only one mathematical axiom that applies in politics and history—"The whole is greater than any of its parts."

The destinies of South Africa have been moulded within the British Empire, and their shape has been altered by forces that have affected the whole. The formation of the Union cannot adequately be studied by anyone, if his attention is solely directed to affairs in South Africa after the fashion of a particularist partisan. But the converse is also true. The influence of South African affairs and of South African experience has spread far beyond its shores. They have taught unforgettable lessons to the statesmen of the Empire-Commonwealth. The flexibility of British rule has been attained by long experience of the complexities of the task of colonial government, and there have been few such laboratories of experience as South Africa. The idea of a trusteeship entrusted with the task of uplifting and fostering the well-being of primitive native peoples has emerged from the long and painful struggle between the cruder earlier notions of planters and missionaries. It was in South Africa that this struggle saw its bitterest phases. The influence of complex economic factors upon national prosperity has demanded deeper practical study during the last fifty years in that

part of the Empire than in most others. Only there could be found such acute and insistent problems as were set by the existence of a great industrial area like the Witwatersrand in the midst of a predominantly agricultural people. Many of the economic problems of the modern world have been presented to South Africa in an acute form in the course of the last two generations, and so clear-cut that a study of their treatment is facilitated. The story of the Unification of South Africa, in fact, is peculiarly fitted to be a training ground for the student of modern history, and it is with the purpose of making its study more accessible that this collection of documents has been prepared.

I. Extracts from Correspondence between Sir George Grey and the Colonial Office respecting the Confederation of South Africa.

(*a*) Sir George Grey, Governor of Cape Colony and High Commissioner for South Africa, to the Right Hon. Lord Stanley, Secretary of State for the Colonies.

Cape Town, 5 *July*, 1858.

[Parl. Pap., 216, pp. 1-2.]

I have the honour to report that the enclosed paper is the copy of a document which has . . . been circulated by some of the leading people in the Orange Free State. . . . What I am anxious your Lordship should know is, that there appears a great probability that the inhabitants of the Free State may request to be united to the Colony of the Cape of Good Hope under a federal form of government; and as far as I can form an opinion upon such a point, I think the inhabitants of this Colony would in general desire that such a federation should take place. I have so frequently stated it as my own opinion that such a federation would be a very desirable event, both for Great Britain and this country, that I need not trouble you with any further remarks upon that point; but I beg that I may be instructed . . . as to the general purport of reply I should return to any such application.

(*b*) *Enclosure.* To his Excellency Sir George Grey, K.C.B., Her Majesty's High Commissioner, etc.

We, the undersigned inhabitants of the Orange Free State without distinction of descent, unanimously

address ourselves to your Excellency, the man who solely understood to grapple with and ultimately to overcome the great difficulties in Kaffraria. . . . It is our earnest opinion, that unless this country called Orange Free State is allied in federal union with our parent Colony, it never will enjoy the blessings of peace and prosperity. Such federal union, if Her Majesty would deign to grant it to us, would enable us to preserve our officers of Government, our National Assembly called "Volksraad," all of which did their best, under trying circumstances, to govern this country to the best of their abilities; it would also afford us the means to continue transacting our public business in the Dutch language . . . and to nurse the Church to which this country is so greatly indebted; in fact, nothing would disturb our present internal arrangements and all remnants of old dissent would gradually disappear. We would then claim as a right that part of the revenue arising from duties on goods consumed in the Orange Free State; and that also of sending the members to the general Parliament, that our voice may be heard in the Congress of our common Fatherland.

Whilst thus allied for better or for worse to the mother Colony from which unjustly we have been severed, . . . we would, joining our sister Colony of Natal to the east and the districts of Colesburg and Albert to the south, form a compact union, and the prestige of such national federation would alone be sufficient to prevent those lamentable strifes with the native races which of late we had to deplore.

We have read that your Excellency has matured a similar federative tie between the different States of New Zealand . . . and we therefore sincerely trust that your Excellency will take this our fervent prayer into earnest consideration.

The following further petition was forwarded by Sir George Grey to the Colonial Secretary on 14 August, 1858, together with his reply thereto.

[Parl. Pap., 216, p. 2.]

(*c*) Bloemfontein, 30 *June*, 1858.

We, the undersigned burghers of the Orange Free State, venture hereby to have recourse to your Excellency, in the name of a Commission which has been formed here, with the object of constitutionally promoting the interests of this portion of South Africa. . . .

We . . . have felt it more advisable to address ourselves . . . to your Excellency with a kind request that you might be willing to resolve our doubts on the following points:—

1. Regarding the possibility of obtaining federal union in South Africa.
2. In what way such federation might be effected.

(*d*) Reply of Sir George Grey, 20 July, 1858.

[Parl. Pap., 216, p. 3.]

My feeling of personal interest makes me feel more strongly that I ought not, as Governor of the Cape Colony, to appear in any way to encourage the inhabitants of the Free State in the pursuance of any particular line of policy, unless they address me through their Government, especially as no federation could be brought about otherwise than through the intervention of your Volksraad, and of the Parliament of the Cape of Good Hope, which Legislatures would respectively give expression to the wishes of the inhabitants of each of the two countries.

The receipt of this despatch and enclosures was acknowledged on 5 November, 1858, by Sir E. Bulwer Lytton, who had succeeded Lord Stanley as Colonial Secretary. He added:—[1]

I have already in a private Despatch of the 6th September last invited your opinion on the subject of

[1] Parl. Pap., 216, p. 33.

consolidating in federal union all Her Majesty's possessions in South Africa, and on the permanent line of policy, consistent with the maintenance of public faith pledged by the existing treaties, to be pursued towards the free states established on our borders; and I shall await your answer to that Despatch before furnishing you with any instructions. In the meanwhile, your answer to all applications on the subject should be, that you can say nothing without previous instructions from Her Majesty's Government.

(*e*) Sir George Grey to the Right Hon. Sir E. Bulwer Lytton, Secretary of State for the Colonies, 19 November, 1858.

[Parl. Pap., 216, p. 4.]

I have the honour to acknowledge the receipt of your private Despatch of the 6th of September last, calling upon me for an expression of my views upon the policy of incorporating British Kaffraria with the Cape Colony, and, if possible, of uniting all Her Majesty's dominions in South Africa under some common, and, of course, free Government.

When the policy was adopted of dividing South Africa into many States bound together by no ties of union, . . . so strongly was [the] apprehension of disloyalty felt, that even when . . . the question of their federation amongst themselves arose, it was thought that it would be desirable to encourage such a measure, not with a view to the interests of the inhabitants but because if they were united into one country, they would have but one Government and one capital; that therefore when it was necessary to punish or re-conquer them, it would only be requisite to deliver one blow at one point, instead of several blows at two or more points. . . .

I would urge that experience has shown that the

views which led to the dismemberment of South Africa were mistaken ones. That in point of fact, Her Majesty's possessions here are of great, and yearly increasing value to the trade and commerce of Great Britain, and may be made valuable to an almost indefinite extent. . . . The people . . . are willing to contribute largely to the defence of the portion of Her Majesty's possessions which they inhabit, and would do so much more largely if they were allowed to take a more direct share in the administration of the affairs of this country. . . . The missionaries have already produced, and are producing most beneficial effects and influences amongst the tribes of the interior.

What, therefore, I would recommend would be that an Act of Parliament should be passed, or that some measures should be taken, which would permit of the several States and Legislatures of this country forming amongst themselves a federal union, such as their several interests would show them to be for the common good. This union of federated States would possess a general Government administered by a Governor, representing and appointed by Her Majesty, assisted by a Legislature chosen by the people of the several States, which would have powers of legislation upon all points of general interest and relating to the proportions in which the general revenues should be divided between the several States. To the general Legislature would also belong the duty of providing for the general safety.

The Governor should, I think, be assisted by what is called a responsible ministry, possessing the confidence of the general Legislature, without whose advice it would not be competent for him to act. Such council would, probably, be made up of representatives of the several States, so that a knowledge of the requirements and feelings of every part of this vast country would be

brought to bear on each question which came under discussion. . . .

The several States should, I think, through their own local Governments and Legislatures, have full and free scope of action left to them in all subjects which relate to their individual prosperity or happiness. The heads of their local governments should correspond with the general Federal Government upon all necessary points, so that they may act in conjunction with that Government in relation to all subjects which concerned the general safety or weal. . . .

I think that if the several Legislatures of the Cape of Good Hope, Natal and the Orange Free State, were empowered to form a federal union, embracing Kaffraria within their limits, and adopting into the Union, either now or hereafter, all such States as might see fit to join them, including even native States, they would accept such a measure. . . .

I have not thought it necessary to trouble you with any details of the form of government I should propose for the States of the contemplated federal union. The constitution of New Zealand embodies the model which I should propose for adoption, and that form of government could easily be so altered as to suit in every particular the circumstances of South Africa.

(*f*) Mr. S. Boshof, President of the Orange Free State, to Sir George Grey, enclosing a Resolution of the Volksraad, 5 January, 1859.

[Forwarded by Sir George Grey to Sir E. B. Lytton on 13 January, 1859, and received 28 February, 1859. The terms of the Resolution had already been forwarded on 22 December, 1858.]

[Parl. Pap., 216, p. 11.]

Bloemfontein, 5 *Jan.*, 1859.

I have the honour to inform your Excellency that the question as to the expediency of applying to the Government of the Cape Colony to take into consideration the

desirability of a federal union between that Colony and this State, has been discussed by the honourable the Volksraad during their last meeting; and that the Raad, on the 7th December last, passed a resolution which is contained in the enclosed extract from their records. . . . I now beg leave to request that your Excellency will be pleased, at your earliest convenience, to inform me whether your Excellency will recommend the proposal of the Volksraad to the consideration of the Cape Parliament at its ensuing session. . . .

(*g*) *Enclosure.* Resolution taken by the Volksraad of the Orange Free State, at the Afternoon Meeting of 7 December, 1858.

The Council (Raad) feels itself in unison with a large number of the burghers who have already approached the Council by memorial, convinced that a union or alliance with the Cape Colony, either on the plan of federation or otherwise, is desirable, and resolves that his Honour the State President be requested to correspond with his Excellency the Governor on that subject, in order thus to ascertain whether the Cape Parliament will declare itself inclined for such a union, and whether the Colonial Government would receive a Commission from this State, if possible, at one of the towns in the Eastern Province, who, together with that Government, or with a Commission to be appointed by it, shall draft the preliminary terms of such a union, to be thereafter submitted for the approval of both Governments.

In reply Sir George Grey stated on 13 January, 1859, that he would recommend the Cape Parliament to take the proposal of the Volksraad into early consideration.

(*h*) Sir E. B. Lytton to Sir George Grey, 11 February, 1859. [Parl. Pap., 216, p. 34.]

I have to acknowledge your [Despatches of 19 November, and 22 December]. I have to thank you for the

very full and free exposition of your views in the former of these Despatches. But I must inform you that, after weighing the arguments which you have adduced, Her Majesty's Government are not prepared to depart from the settled policy of their predecessors by advising the resumption of British sovereignty in any shape over the Orange Free State.

(*i*) The Same to the Same, 5 March, 1859.

[Parl. Pap., 216, p. 34.]

I have to acknowledge your Despatch of the 13th January last, transmitting copy of a letter from the President of the Orange River territory with resolution of the Volksraad. . . . [Your reply to the President] has caused me some surprise, because on the 5th November last I distinctly told you that "your answer to all applications on the subject (on the part of the free states) should be, that you can say nothing without previous instructions from Her Majesty's Government." That Despatch you had before you on the 13th January, unless I have misunderstood your acknowledgments of Despatches received. . . . Since that time you will have received from myself the fuller decision of Her Majesty's Government not to assent to any project for the resumption of British sovereignty in any shape over the Orange River Free States. I can only hope that this may have reached you in time to prevent [your promised] communication to the Cape Parliament. Her Majesty's Government are the authorities ultimately responsible for the policy under which the South African possessions are to be maintained.

On 21 March, 1859, Sir George Grey forwarded to the Colonial Office a copy of the speech he had made to the Cape Parliament. Of this the following is an extract.

(*j*) Speech of His Excellency the Governor at the Opening of the First Session of the Second Parliament of the Cape of Good Hope.

[Parl. Pap., 216, p. 15.]

. . . I have received from the Government of the Orange Free State a request that I would ascertain whether you would be inclined to promote, as far as lies in your power, a federal union with that State, and whether you would appoint a Commission to meet a deputation, chosen by the Free State Government, to agree upon the preliminary terms of such a federal union, which it might then be practical to submit for the approval of both Governments. Your present session would afford a convenient opportunity, in connection with this application of the Free State Government, for considering the whole question of the possibility of uniting the several portions of South Africa under some common Government.

You would, in my belief, confer a lasting benefit upon Great Britain, and upon the inhabitants of this country, if you could succeed in devising a form of federal union under which the several provinces composing it should have full and free scope of action left to them, through their own local Governments and Legislatures, upon all subjects relating to their individual prosperity or happiness; whilst they should act under a general federal Government in relation to all points which concerned the general safety or weal.

Under such a form of Government, a number of the inhabitants in each province would be trained to take general views upon the highest subjects relating to the general welfare. No war could be entered upon but with the consent of the general Government representing all the provinces. If any dispute arose between any of the provinces and a native chief, the demands made upon such chief would be most probably just ones, for

they would be considered by a large and impartial body, and they would, from this cause, and from the known power of the federation by which they were made, command respect. . . .

Prosperity and contentment would also follow from a fair proportionate application, throughout the whole of South Africa, of the general Customs revenues, to which all alike contribute, whilst a great increase to the revenues would follow from the stimulus given to trade and industry by peace and prosperity, so that the very province or provinces which might abandon a share of the whole revenues they now enjoy, might reasonably hope to gain more than they gave up.

(*k*) Sir E. B. Lytton to Sir George Grey, 5 May, 1859.

[Parl Pap., 216, p. 35.]

I have only received by the mail just arrived your Despatch of the 21st March, enclosing a copy of the speech with which you have opened the first Session of the Colonial Parliament. . . . I have read with great surprise and regret that passage in your speech which contains an invitation to the Colonial Parliament to consider the propriety of a federal union with the Orange Free State, and, still further, to appoint a Commission to meet a deputation from the Free State, to agree upon the preliminary terms of such a union.

Sir George Grey replied on 19 April, 1859, justifying his proceedings as not involving any disobedience to the orders he had received, but on 4 June, 1859, Sir E. B. Lytton refused to accept this justification and wrote :—

[Parl. Pap., 216, p. 35.]

(*l*) It remains on record, and without any satisfactory explanation from yourself, that without any instructions whatever . . . you did bring the subject before the Cape Parliament . . . not merely as a matter which you were compelled by promise so to communicate to them,

but with the strongest intimation of your own opinion in favour of the policy of the measure. . . . In the enclosure to your Separate Despatch of 1st April last . . . I notice, that, while informing the House of Assembly of the ultimate refusal of Her Majesty's Government to consent to the resumption of dominion over the Free State, you at the same time told them that you had (previously) "received an intimation of the views of Her Majesty's Government upon this subject, which led you to think that they would not unfavourably regard any comprehensive plan which might be submitted to them for promoting that object." If, by this statement, you implied federation, including the Orange Free State . . . then I cannot take too early an opportunity of distinctly affirming that Her Majesty's Government never intended to convey any such intimation at all, and that I find no record whatever of their having done so in any shape.

They [House of Assembly] will have learnt . . . that at no period had you been led in the slightest degree by Her Majesty's Government to suppose that this course of policy would be countenanced. They will have learnt that, on the contrary, you had plain instructions to check any approach towards it at the outset. . . .

You have therefore indeed placed Her Majesty's Government in this country, as well as the local Government under your own charge, in a position of extreme embarrassment and difficulty. . . . It is for [Her Majesty's Government] alone to determine whether steps shall be taken towards annexing or reannexing extensive regions, now under independent governments, to the empire. And this being the case, they have come, with great and painful reluctance, to the conclusion that you have so far compromised them, and endangered the success of that policy which they must deem right and expedient in South Africa,

that your continuance in the administration of the Government of the Cape can be no longer of service to public interests.

Despite Sir George Grey's defence of his actions, Sir E. Bulwer Lytton's successor in the office of Colonial Secretary, the Duke of Newcastle, while withdrawing this dismissal, determined to adhere to the policy of the preceding Ministry and informed Sir George of this decision by a despatch of 1860.

II. Resolution of the Cape House of Assembly concerning Responsible Government and a Federative Union, 9 June, 1871.

(*a*) Transmitted by Governor Sir Henry Barkly to the Earl of Kimberley, Secretary of State for the Colonies, 20 June, 1871.

[Parl. Pap., C. 459, p. 188.]

Mr. Molteno moved, seconded by Mr. Watermeyer: This House is of opinion that the time has come when the system of Parliamentary Government in this Colony should be carried to its natural and legitimate consequence, by rendering the Executive responsible, through the medium of its principal officers, to the Legislature, and thus enabling it, so long as these retain the confidence of that body, to shape the course of public business. And as it may be expedient that the Colony should be divided into three or more Provincial Governments for the management of their own domestic affairs, formed into a Federative Union under a general Government for the management of affairs affecting the interests and relations of the United Colony, this House is of opinion that His Excellency the Governor should be requested, by respectful address, to appoint a Commission to inquire into and report upon the expediency of such provincial Governments, with the federation thereof, and if deemed expedient, to inquire into and report upon the arrangements which may be necessary for introduction and establishment.

In accordance with the above resolution the Governor on 24 June, 1871, issued a Commission under the Public Seal of the Colony to seven persons including Mr. J. C. Molteno and Mr. John Henry de Villiers with the following reference :—

Whereas it is expedient, looking to the great extent of the Colony of the Cape of Good Hope and the requirements of the several districts thereof, as also to the probability of the annexation thereto of adjacent territories heretofore in the occupation of native tribes,[1] that a Commission should be issued, appointing Commissioners to inquire into and report upon the question of Federation, and upon the following or any other matters which the said Commissioners shall find to be connected therewith, that is to say :—

1. Whether the good government of the entire Colony would not be facilitated, and the contentment and progress of certain portions thereof promoted, by its division into provinces, each province having its own legislature, to legislate for local and private purposes only. . . .

3. Whether the model presented by the Dominion of Canada should be followed, the constitution of the Colonial Parliament and Provincial Legislatures, and their relative powers and functions, being in all respects the same as provided by the Imperial Act of 30th Victoria, cap. 3. . . .

7. Ought the Colonial Parliament to possess the power of rescinding or amending the Acts of the Provincial Legislatures, especially such as it may consider to have been passed *ultra vires?* . . .

9. Should [the members of a Local Executive Council] be removable on losing the confidence of the Provincial Legislature under the system commonly called "Responsible Government"? . . .

[1] A Bill for the annexation of Basutoland passed the Legislature during the session of 1871 and received the Governor's assent. (Act No. 12 of 1871.)

Now, therefore, I, the Governor aforesaid, do by this Commission . . . nominate and appoint you, the said [Names] Commissioners for inquiring into and reporting upon the several matters hereinbefore set forth. . . .

This Commission was approved by the Earl of Kimberley in his despatch of 12 August, 1871.

(*b*) Extracts from Speeches of Governor Sir Henry Barkly at the Opening and Prorogation of the Cape Parliament, 18 April, 1872, and 31 July, 1872.

[Parl. Pap., C. 732, pp. 22 and 97.]

18 *April*, 1872.

9. The Report of the Commission, appointed in compliance with [the request of the House of Assembly] to inquire into the expediency of dividing the Colony into three or more Provincial Governments, to be formed thereafter into a Federative Union, will be laid before you.

10. I shall also take an early opportunity of communicating to you an important despatch from the Secretary of State for the Colonies, containing the opinion of the English Crown Law Officers as to the mode in which Federation should be effected.

11. The Commissioners, you will perceive, whilst unable to concur in any common conclusion on several points of importance, propose for consideration the draft of a Bill for the establishment of three Provincial Governments within the Colony. . . .

12. Although, so long as the powers of the local Parliament are left intact, [the Bill] would seem not to effect such a radical change in the Constitution created by Her Majesty's Letters Patent as to place its enactment beyond the competency of that Parliament, it will be seen that the Earl of Kimberley considers Imperial legislation to be desirable in any case of union or federation in South Africa.

13. You will be glad to learn, moreover, from this despatch that Her Majesty's Government is by no means disposed to regard as insuperable the objections to a voluntary union in such confederations of all the territories which now form or have at any time formed, portions of the British Possessions in South Africa.

[p. 97] 31 *July*, 1872.

The advantages likely to result from the Confederation of the several Colonies and States of South Africa have attracted much attention from the statesmen of the mother-country, and it was my pleasing duty lately to communicate to you copy of a resolution unanimously passed by the House of Commons, declaring it to be desirable that facilities for the purpose should be afforded as far as may be practicable by the Imperial Government.

In the absence of any expression of opinion on your part respecting the scheme submitted in the Report of the Federation Commissioners, which I laid before you at the commencement of the Session, it appeared to me hopeless to move further in the matter at present. . . .

(*c*) Extract from Report of Commission on Federative Union in Cape Colony [April, 1872], Transmitted by Sir Henry Barkly to the Earl of Kimberley, 1 May, 1872.

[Parl. Pap., C. 732, p. 43.]

VI. The Act creating the Dominion of Canada, referred to in their Commission, is not one which, in the opinion of the Commissioners, is, in its leading features, applicable to the Cape. The Dominion may be described, notwithstanding the division once again of Canada into two parts, as a Federation, for certain purposes, of Colonies previously distinct. The Cape upon the other hand is, and has ever been, one undivided

Colony. . . . In British North America the question was, whether three or more Colonies, independent of each other, would agree to federate, and, if so, upon what terms. At the Cape it would, in the opinion of all the Commissioners, be in the highest degree impolitic to divide the Colony into three or any other number of independent Colonies, in order that these Colonies should afterwards discuss amongst each other the expediency or the conditions of a Federative union. What is popularly known in this Colony as Federation, and is, by many of the divisions of the Colony at a distance from the seat of Government ardently desired, is simply the establishment of elective local bodies for the management of local affairs.

VII. (1) The majority of the Commissioners think that there should be a division of the Colony into Provinces for local purposes. Some, whose opinions are entitled to great respect, are of opinion that, until the Free State, the Transvaal Republic, and Natal show a disposition to federate with the Cape, and until West Griqualand and the country between the Kei and the Bashee, or between the Kei and Natal, shall have been annexed to the Colony, no change of the kind proposed will be either necessary or expedient. . . . The time may come when the advantages of a union amongst South African communities for the creation of a strong Government, powerful to protect, and, to a certain extent, to control its several members, will become apparent to all. At present it appears to the majority of the Commissioners that the prospect of such a union is remote, and that the advantages of local Governments should not, in the meantime, be withheld from the Colony as it now exists. . . .

III. The Earl of Kimberley, Secretary of State for the Colonies, to Sir H. Barkly in reply to a Petition for Separation[1] forwarded from Cape Colony, 14 February, 1873.

[Parl. Pap., C. 732, pp. 161-163.]

1. I have already acknowledged the receipt of your despatch of the 3rd December last, transmitting a petition to the Queen, to which 13,672 signatures are stated to be attached, praying that the Eastern Province of the Colony of the Cape of Good Hope may be separated from the Western Province, and that it may be erected into a separate and independent Colony, together with a letter from the Secretary of the Frontier League, giving reasons against such separation, and alleging that the majority of the inhabitants of the Eastern Province are strongly opposed to it. I have now to acquaint you that I have laid the petition before Her Majesty, who was pleased to receive it very graciously.

2. I have also received your despatch of the 3rd ultimo, enclosing a Minute on the petition signed by Mr. Molteno on behalf of himself and his colleagues in the Ministry. . . .

11. I have not been able to advise Her Majesty to take any action in regard to the prayer of the petition.

12. But although Her Majesty cannot be advised to consent to the "entire legislative and constitutional separation" of the Eastern from the Western Province, it will remain for consideration whether . . . it might not be advantageous to place each of the great divisions of the Colony under a Provincial Government subordinate to a general Legislature; so that, after making the requisite contributions for the purposes of the

[1] The question of Federative Union in the Colony was completely overshadowed by the agitation in the Eastern Province for Separation.

general Government, the revenue of each Province might be expended within it in accordance with the wishes of the inhabitants.

13. . . . However . . . there should, apparently, be no insurmountable difficulty in administering a Colony of the size of the Cape of Good Hope under one Legislature.

IV. Right Hon. the Earl of Carnarvon, Secretary of State for the Colonies, to Sir Henry Barkly, Governor of Cape Colony and High Commissioner concerning a Proposal for a Conference of Delegates from the Colonies and States of South Africa, 4 May, 1875.

[Parl. Pap., C. 1244, pp. 1-4.]

It is with regard to the Native question that I conceive it to be most urgent at the present moment that there should be a free and friendly interchange of opinion among the neighbouring Governments in South Africa. . . .

Her Majesty's Government is desirous that a Conference of delegates, representing the Colony of Natal, the Province of Griqua-Land West, the Orange Free State, the South African Republic, and the Eastern and Western Provinces of the Cape, under such Presidency and with such assistance as Her Majesty's Government can give, should meet at the earliest practicable time at some convenient place within the Cape Colony, for the discussion of native policy, and of such other questions as it may be agreed to bring before the Conference. . . . As the Representative of this country on the Conference, I do not think it would be possible to find any person so highly qualified as Mr. Froude, to whose very eminent abilities and high reputation are added (most fortunately for all parties) an extended knowledge of and a strong

interest in Colonial subjects, and who has recently given much attention to the affairs of South Africa. It has given me much pleasure to learn that Mr. Froude has decided to revisit the Cape, and is willing to take a part in these negotiations. As Representative of the Western Province of the Cape the name of Mr. Molteno obviously suggests itself . . . and I sincerely trust that he may be able to give to the Conference the advantage of his great ability.

In the case of Natal I can have no hesitation in designating Mr. Shepstone. . . . [Proceeds to nominate representatives for the Western Province of the Cape and for Griqua-Land West.]

It will, of course, be clearly understood that this Conference will meet to deliberate and report, but not to take any action upon the subjects which might come before it. I do not desire to suggest any close restriction of subjects, as it appears to me that it would be unadvisable to exclude any important question of common interest which the majority of the Commission may think it desirable to discuss. As I have already said, the more immediate benefit which I should look for would be some satisfactory understanding as to Native policy; but if, in the free exchange of communications between the representatives of the different States concerned, the all-important question of a possible union of South Africa in some form of confederation should arise, Her Majesty's Government will readily give their earnest and their favourable attention to any suggestion that may be made. . . . I need only further observe, on this head, that I see no reason why, in the event of such a Confederation, the form of Government in each State or Province should necessarily be uniform or why the local Governments might not be conducted on different systems. . . .

I only desire to add—and there must be no misap-

prehension on this point—that the action of all parties, whether the British Colonies or the Dutch States, must be spontaneous and uncontrolled. It is a question for them to decide whether it is for their interests to enter into such a Union, and I desire to place no pressure on that decision.

V. Minute of the Government of Cape Colony and Resolution of Legislative Council on the Conference proposed by the Earl of Carnarvon, 7 June, 1875.

[Parl. Pap., C. 1399, p. 5.]

Minute on a despatch from the Right Honourable the Secretary of State for the Colonies, of the 4th May, 1875, communicated to Ministers by his Excellency the Governor's Minute, dated 3rd instant, on the subject of a Conference of Representatives of the several Colonies and States in South Africa, which it is proposed should be assembled, with a view to the friendly interchange of opinions in regard to questions of interest to the Governments of such Colonies and States.

Without entering upon a discussion as to the extent to which the many important questions touched upon in this despatch may affect this Colony, Ministers are of opinion that its interests would not be promoted by pressing forward at the present time such a Conference as the Secretary of State proposes. . . .

Ministers have the honour to state further that, in their opinion, the proportionate number of Delegates who should represent the Cape Colony at any such Conference and the selection of Representatives to whom the discharge of such important functions would be entrusted, are questions, more especially the latter, which it would seem very desirable to leave to the free action and judgment of this Colony.

Under these circumstances, and as Ministers feel as-

sured that nothing will be gained, in so far as this Colony is concerned by any action which may now be taken in reference to this despatch, they do not feel themselves in a position to advise in the matter beyond agreeing to the suggestion that copies of this despatch be presented to both Houses of Parliament, together with copies of this Minute.

(Signed) J. C. Molteno.

(*a*) Resolution of the Legislative Council, 16 June, 1875.

The following resolution was carried by 9 votes to 7 as a compromise amendment to a resolution proposing the acceptance of Lord Carnarvon's suggestion.

[p. 9.] That this Council appreciates the deep interest taken by Her Majesty's Secretary of State for the Colonies in the welfare and progress of the South African Colonies and States, shown in his despatch laid upon the table of this House, on the proposed Confederation of all these settlements into a South African Dominion under the British Crown.

VI. Replies of the Governments of certain of the South African Colonies and States to the Invitation of the Earl of Carnarvon to a Conference.

[Parl. Pap., C. 1399.]

Griqua-Land West.

(*a*) Resolution passed by the Legislative Council of Griqua-Land West on the 28 July, 1875.

[p. 19] That in the opinion of this Council it is desirable and expedient that a Conference of Representatives of the South African Colonies and States should assemble for the consideration and discussion of questions of common interest, with a view to the formation, if possible, of a Federal Union.

[Conveys thanks to Lord Carnarvon for his proposal.]

Natal.

(*b*) Major-General G. J. Wolseley, Administrator, to Governor Sir Henry Barkly.

Government House, Natal,
6 *August*, 1875.

[p. 25] I laid your Excellency's despatch of the 25th June before my Executive Council, and I have now the honour to inform your Excellency that the Government of Natal is prepared at any moment to enter into the Conference of Representatives of the States and Colonies of South Africa, as proposed in Lord Carnarvon's despatch of 4th May.

(*c*) Resolution adopted by the Legislative Council of Natal, 23 November, 1875.

Transmitted by Lieut.-Governor Sir H. E. Bulwer to the Earl of Carnarvon, 26 November 1875.

[p. 55] That this House . . . desires . . .

2. To express its conviction that a Conference . . . is especially calculated to bring into practical existence that free and friendly interchange of opinion and mutual aid that is essential to the quiet and prosperity of South Africa as a whole. That such a Conference will conduce to a future and closer union between the Cape Colony, the Orange Free State, the South African Republic, the Province of Griqua-Land West, and this Colony; a union that may be of material benefit to each, of disadvantage to none.

[Suggests that one or two Delegates nominated by the House should attend to act and advise with the Representative of Natal recommended by the Secretary of State.]

South African Republic.

(*d*) Mr. P. J. Joubert, Acting State President of the South African Republic, to the High Commissioner.

Government House, Pretoria,
16 *July*, 1875.

[p. 20] . . . I desire your Excellency to be good enough to express to his Lordship my readiness to recommend to my Executive . . . that this State should take part in such Conference, and to send a delegate or delegates, who shall, with all conciliation for the general interest, and yet all due caution for the particular interests of this State, lend aid in the discussion of the important subjects to be brought before the Conference. In regard to the native question more especially . . . [the proofs] are sufficient to convince this Government of the necessity, in the general interest of the whole of South Africa, that more uniformity be adopted [as to the policy towards the natives and the mode of treatment to which they are subject].

Orange Free State.

(*e*) President Brand to the Earl of Carnarvon.

Bloemfontein, Orange Free State,
11 *November*, 1875.

[Refuses to consent to submission of the question of the disputed territory in Griqua-Land West to a Conference of representatives of the various Colonies and States, but continues,]

[p. 47] . . . I shall be ready and willing, upon our Government receiving an official invitation to that effect, to advise the Volksraad to take part in a Conference with Representatives from the Cape Colony, Natal, and the South African Republic upon the Native question and the trade in arms and ammunition—the subject-matter to be brought before such Conference being clearly specified. But I regret exceedingly that as

long as the question of the disputed territory [Griqua-Land West] remains unsettled, I cannot consistently . . . advise the Volksraad to take part in a Conference with a Representative from that very Territory from which we withdrew under our protest, to which we still adhere.

VII. Mr. James Anthony Froude to the Earl of Carnarvon furnishing a Report of the Late Events at the Cape of Good Hope,[1] London, 10 January, 1876.

[Parl. Pap., C. 1399, pp. 58-83.]

The Report begins with a long historical resumé of events in connection with the sovereignty of the Orange River Territory since 1848 and especially with the difficulties concerning Griqua-Land West since 1871. This is followed by an account of the action of Lord Carnarvon himself.

[p. 64] Your Lordship had before you two matters of great consequence which required to be immediately dealt with—the dispute with the Republics arising out of the annexation of Griqua-Land West, and the native management in Natal,—a review of which had become imperatively necessary. The Cape Parliament had repudiated its responsibilities with the first; with the second it had no right to interfere; yet in neither case could anything be done without touching the interests of the Cape Colony. With regard to the Diamond Fields, your Lordship was entitled, had you thought good, to inform the Cape Parliament that the annexation had been conditionally sanctioned by it, and that the

[1] It is impossible to convey an adequate impression of this extraordinary document by merely a few brief extracts, and space does not admit of more. Those who can get access to the Blue Book, which has long been out of print, will find the document an admirable revelation of the attitude of a Victorian intellectual towards the Colonies and "Colonials." This should be contrasted with the wisdom and understanding of the trained official, Sir Henry Barkly.

Cape Parliament must redeem its promise, or that the British Government must withdraw from the occupation of the Fields. If the Colony was unwilling to embroil itself with the Republic, still less reason was there for Great Britain to maintain a position from which it derived no particle of advantage, while it was making itself an object of general ill-will. Your Lordship desired to deal generously with the Cape Parliament, and preferred a less extreme course. . . . You proposed to take the Colony into your counsel, and to ask for its advice, as a guide to yourself, in reorganising the native administration in Natal.

. . . Your Lordship . . . did not ask for a formal Conference, composed of elected Delegates, the decisions of which might carry binding force. The responsibility of action was with yourself, which you had neither desire nor intention of parting with. You wished only for the assistance of a few distinguished individuals who would be best able to advise you. . . . Your Lordship had done me the honour of mentioning myself as the person whom your Lordship had selected to represent the Imperial Government when the Conference should meet. My function was to be that of a listener only. I was to collect the opinions of others. I had none to express of my own. I followed the despatch at an interval of three weeks, and I landed at Cape Town on the 19th of June.

I was prepared for many difficulties. I was certainly not prepared for the news which met me on my arrival —that the despatch, which had been conceived at any rate with the most studied consideration for the Cape Colony, had been received by the Cape Ministers and Parliament as an invasion of their constitutional privileges. . . .

[The Ministerial Minute condemning the despatch] complained of the introduction of an important proposal

from the Secretary of State without previous consultation with the responsible Ministers. The nomination of representatives was condemned as unsatisfactory, and as calculated to revive animosities between the Eastern and Western Provinces; and the invitation itself as ill-timed. The initiative, the Ministers insisted, belonged to the Colony, for which the Secretary of State ought to have waited. The resolution of the Lower House, moved by a private member, but supported by the Ministers, added that the Colony was the best judge of the time when it was for its own interests that such subjects as your Lordship desired to submit to a Conference should be brought forward for discussion; and virtually desired the Imperial Government to mind its own business. So extraordinary a misconception of your Lordship's meaning had not prevailed without opposition. Twenty-three members of the Assembly, out of a House of fifty-five, had adopted the more cautious views of the Council. . . . Several members of the Houses of the Legislature waited upon me, on the steamer entering the docks . . . to ask me to take an early opportunity of informing the Colony what your Lordship really meant. . . . In the debate your Lordship had been accused freely of the most corrupt and dishonest motives. You were said to have desired insidiously to throw on the Colony the expense of defending Natal; you wished to force the Colony to assist you in oppressing the two Republics; you meant to introduce some new and wild native policy, which might bring on a Kafir war. . . .

The Governor had sent his carriage for me, with a request that I would come to him immediately. He informed me briefly of what had taken place. Your Lordship's proposals, he said, were unpalatable. The Ministers and Parliament had declined to entertain them. The Opposition, whose object was to embarrass

Mr. Molteno's Cabinet, had taken up the despatch, and were using it for party purposes. They would probably make advances to myself, and he was bound to impress upon me that in a Colony under responsible Government, the Secretary of State could only communicate with the people constitutionally through the channel of the Ministers; that in consequence I must, under no circumstances, take a part in any public meeting assembled for a political purpose.

I listened with increasing surprise. A Colony with or without responsible Government has no external policy. The responsible Ministers of the Colony are the Constitutional Advisers of the Crown for the internal affairs of the Colony, and the Secretary of State has nothing to do with them; but the Secretary of State is the Adviser of the Crown, so far as the Colony is a part of the Empire, and stands in relation to other parts of the Empire, or to foreign Powers. If the Secretary of State finds it necessary to address the people and Parliament of the Colony on such subjects, he invites the assistance of the Responsible Ministers in the first instance out of courtesy and convenience. If he appears to be misunderstood or misrepresented by the Ministers, any independent British subject is free to state what he believes to be the truth. So, at least, I had always understood the theory of Responsible Government in the Colonies. . . . It appeared to me that Sir Henry Barkly had it in his power, without violating constitutional etiquette in the smallest degree, to have set your proposition before the country in its true colours. He did not encourage me to hope that he would exert himself, either in this way or in any other way. He appeared, in spite of all that I could say, to remain of opinion that the despatch had met a reception for which the Colonial Office ought to have been prepared. He again insisted that if I accepted any invitation to speak

in public, I should be committing a constitutional offence. . . . If I chose to disregard his intimation, I must do it on my own responsibility, but neither he nor Mr. Molteno would be present.

Although Mr. Molteno's conduct was inexplicable to me after the letter which I had written to him, yet your Lordship had so high a respect both for his intelligence and his character, that I was convinced that, . . . when he knew the truth, he would regret his precipitation; and that when undeceived himself, he would withdraw his Minute, and induce the Parliament to rescind its resolution. . . . I waited on Mr. Molteno the following morning,[1] and I regetted to find that I had been mistaken. . . . He either did not believe me, or what I said did not remove his objection. He said that before your Lordship had invited a South African Conference, he ought to have been himself first consulted. I answered that the subjects with which the Conference was to concern itself did not fall within his province as Minister of the Colony. He was only invited to advise. Mr. Molteno did not admit the force of the reply. The Colony, he said, by taking part in the Conference, might be incurring unknown obligations. . . . Your Lordship, by nominating an eastern representative, was encouraging a feud between the Eastern and Western Provinces; shaking the credit of the Colony in the money-market; and countenancing the agitation in Grahamstown and Port Elizabeth for a separate Government. I told him that . . . you wanted nothing, but to learn from himself and others in the Colony how you could settle the dispute with the Free States, and rearrange the native administration in Natal in the manner which would give most general satisfaction. . . . Mr. Molteno said the movement for Confederation was premature; the

[1] 20 June, 1875.

country was not ripe for it. I replied that you had not pressed Confederation ; you had alluded to it merely as a possible solution of other problems [i.e. Griqua-Land and the native question] which might present itself during the discussion of them, but you had distinctly said that it was a matter for the several States to determine among [p. 68] themselves. . . . In conclusion, I said that although he adhered to his own resolution, it was unfair to your Lordship that the people of the Colony should be left with a false impression of your Lordship's objects in proposing a Conference. The Ministers might decide as they pleased on the propriety of the Colony taking part in it, but the people ought at least to know that you had no sinister purpose of sliding off upon the Colony Imperial responsibilities, and that you had not trespassed upon their political privileges. I had been invited to give a public explanation of this despatch, and I thought that it would be my duty to comply. Mr. Molteno replied to the same purpose as the Governor, that the responsible Minister was the proper person through whom communications could be made to the Colony. He said that if I had fresh information to give he would lay it before the Parliament; but I had no information to give beyond what he already possessed, and my explanation seemed to produce no effect upon him. . . . The arguments which he had alleged seemed more like excuses to justify a course which had been adopted from another motive, than reasons which could have induced an experienced statesman to have given a reception so rude and uncalled for, to an overture which had been courteously intended. . . . Colonists are apt to suspect communications from the mother-country, which come on them as a surprise. They do not credit a Colonial Minister with being disinterested, and the more fair his language, the more they assure themselves that a mystery lies behind it. . . .

The following passage occurs near the end of the Report in connection with the author's comments on a meeting at Uitenhage.[1]

[p. 79] It appeared to myself that both [Mr. Merriman] and the rest of the Ministry regarded the connection with Great Britain as no closer than that which once existed between Great Britain and Hanover—a connection in and through the Crown alone, and that they were themselves the sole advisers of the Sovereign in all the concerns of the Colony, domestic and external alike.

If this be the constitutional position of a Colony under Responsible Government, some persons will be of opinion that the Imperial troops ought to be withdrawn, the High Commissionership to be abolished, and the naval station at Simon's Bay divided from the Cape Colony and placed exclusively under Imperial jurisdiction, and that the longer a distinct understanding on these matters is postponed, the more grave and dangerous the situation may become. If the Cape Colony is not an integral part of the British Empire, and subject in its Imperial relations to the control of the British Cabinet, the Cape Ministers may have a foreign policy of their own, and in the event of Great Britain being engaged in a protracted war, there is nothing to prevent

[1] Mr. Froude persisted in his intention to address public meetings on the subject of the proposed Confederation, and the latter part of the Report with the main exception of some excursions into South African history, describes the events of his progress through the Colony. He maintained tenaciously that it was undertaken solely in a private capacity, but it resulted in a great deal of agitation. The tour was brought to a close by an unpleasant scene at a public luncheon at Uitenhage arranged to meet Mr. Merriman, the Commissioner of Public Works, to which Mr. Froude was invited. The Minister complained [p. 79] that the excitement in the country interfered with its prosperity and prevented the members of the Cabinet from doing their duty. He denounced the agitation as "an Imperial agitation, an agitation from abroad," and the party broke up in some disorder.

them from declaring the neutrality of the Colony and its ports.

When language bearing this construction was openly used by a member of the Cape Ministry, the agitation had passed into a sphere where it was impossible for me to follow it. . . . With respect to myself, an opinion began to prevail [among the supporters of the proposal for a Conference] that my zeal had gone beyond my discretion.[1] . . .

VIII. The Earl of Carnarvon to Governor Sir Henry Barkly Approving of the Holding of a Special Session of Parliament to consider the Proposal of a Conference on Confederation, 22 October, 1875.

[Parl. Pap., C. 1399, p. 27.]

It appears to me not improbable that the great amount of discussion which has been given throughout the Colony to the question of Confederation may be held to have fulfilled most of the purposes of that preliminary Conference which I had originally suggested; and it may be thought, as I myself am becoming disposed to think, that the time has arrived when Her Majesty's Government should more specifically explain the general principles upon which they are of opinion that the Native policy of the future should be based, and the terms and conditions upon which they conceive that a Confederation might be effectively organised.

If it should be considered that the time for such explanations has come, it will deserve much consideration whether a full and satisfactory understanding may not best be attained by a meeting in this country of those

[1] Mr. Froude returned to Cape Town and tried to approach the Prime Minister. But Mr. Molteno refused to have any communication with him. The situation became radically changed by the receipt of Lord Carnarvon's despatch of 22 October, 1875. (See No. VIII.)

persons who are especially able to lay before Her Majesty's Government the views and requirements of the different communities of South Africa.

. . . I may now add that, whether or no such a meeting as I have just indicated should take place, it is not improbable that I may find it desirable to request either you or Mr. Froude, or possibly both, to proceed to this country and confer with me on many points as to which it is impossible to arrive at a complete understanding by correspondence.

IX. Proceedings of the Cape House of Assembly on the Proposal for a Conference, 23 November, 1875.

[Parl. Pap., C. 1399, pp. 48-52.]

Order of the Day.

Debate on the Colonial Secretary's Motion to be resumed.

Mr. Speaker stated that, when the Debate was adjourned yesterday, the Motion under consideration was:—That, in the opinion of this House, the agitation which has been created and encouraged in this Colony in the name of the Imperial Government, in opposition to the Colonial Government, on the subject of a Conference of Representatives of the several Colonies and States in South Africa, as proposed by Lord Carnarvon, is unconstitutional, and such as to make the successful working of self-government in this Colony impossible; and this House, having considered the despatch of the Right Honourable the Secretary of State for the Colonies, dated the 15th July last, is still of opinion that the interests of this Colony would not be promoted by pressing forward, at the present time, such a Conference as the Secretary of State proposes.

To which there was an Amendment moved by Mr. P. Watermeyer:

That the House . . . is of opinion that this Colony ought at once to accept the invitation [to a Conference] held out to it, and that delegates should be appointed to represent it at such Conference: Provided, however, that none of the conclusions arrived at by such Conference shall effect the interests of, or be binding upon, the various States and Colonies of South Africa without first having received the sanction of their respective Legislatures.

Two minor Amendments were also on the paper but were not of importance. The principal other Amendment was that of Mr. Solomon which was ultimately accepted.

Mr. Speaker then put the Question: That all the words of the Colonial Secretary's Motion after the word "That," stand part of the Question, which passed in the negative.

Mr. Speaker next put the Question: That the words of the Amendment moved by Mr. P. Watermeyer, now the main Question, stand part of the Question.

Upon which the House divided:

Ayes, 22:—[Names follow.]

Dowling and Watermeyer (Philip, J. A.), Tellers.

Noes, 35:—[Names follow.]

Pritchard and Vincent, Tellers.

The Amendment proposed by Mr. P. Watermeyer accordingly negatived.

Mr. Solomon's Amendment having now become the main Question was adopted by 36 votes to 22 and after some verbal amendment.

The substantive Motion, as thus amended, was then put and agreed to, as follows:—

"As it appears from the despatch dated the 22nd October, 1875, that the Right Honourable the Secretary of State for the Colonies has withdrawn his proposal for a Conference of Representatives of the several Colonies and States of South Africa, this House is of opinion that

it is not now called upon to record its continued objection to the holding, at the present time, of such a Conference, or its condemnation of the unconstitutional agitation carried on in this Colony in connection with this question. This House, however, desires to express its opinion that the Government and Parliament should, if it be desired by the Imperial Government, give it their counsel and assistance in settling the difficulties which have arisen out of the extension of British jurisdiction to the territory known as Griqua-Land West."

X. The Earl of Carnarvon to Governor Sir Henry Barkly, 24 January, 1876.

[Parl. Pap., C. 1399, p. 87.]

. . . I am bound to point out . . . a singular but absolute misconception of fact in the statement with which Mr. Solomon's amendment[1] opens, that Her Majesty's Government have withdrawn their proposal for a Conference. Both in my despatch of October 22nd, and in my subsequent despatches on the subject, I have repeatedly stated that I do not think it desirable, after all the long and animated discussion of the last few months, that the first or preliminary meeting of delegates should take place without some more definite enunciation of the views of Her Majesty's Government on several questions, and that I conceive it to be most convenient for such explanations to be given in this country. Not only, indeed, do I decidedly adhere to the opinion that an early meeting is desirable, but I have before me a distinct resolution on the part of the Legislature of Natal in favour of the representation of that Colony at a Conference, together with cordial expressions of readiness from the Authorities of the Free State and the Transvaal Republic to attend it, and

[1] No. 11.

it therefore only remains to decide what may be the most suitable time and place for such a meeting. . . .

It is, then, my hope that an arrangement may be shortly made for the holding of a Conference in London. . . . As I have never pressed upon the Cape Government, so I now desire to avoid the least semblance of pressing upon them, an attendance at the Conference. . . .

I must not conclude without some observations respecting that important question of Confederation, which has engaged so much public attention in South Africa. I understand that some persons have considered that in my despatch of October 22 I have too readily assumed that the Cape is prepared to affirm the present expediency of Confederation, and even that I have indicated an intention of pressing that policy upon the Colony. It is true that in that despatch, as in more than one which you have subsequently received, I gave especial prominence to this question; so I did also in my first despatch suggesting a Conference, for I have felt it to be the question in the presence of which all others are of secondary importance. . . .

In your despatch of October 20 . . . you yourself say, "the feeling of the country has been so loudly expressed in most districts in favour of the proposals for a Conference, that I cannot but think that if reciprocal sentiments exist in the Republics such a Conference will, ere long, be held, and the Confederation of South African States and Colonies under the British flag, for which your Lordship is so earnestly labouring, be accomplished." I trust this may be so. That the two Republics should see their way, on fair and honourable terms, to resume their connection with the British Crown, from which they were unfortunately separated many years since, would be a result of the highest and most unquestionable value; that they should even enter into a cordial and intimate

alliance with that Empire in which I firmly believe their surest interests to be bound up, would, in my eyes, be an object in the next degree desirable. . . .

While, however, in consequence of the recent discussions, the present time appears to me peculiarly opportune for laying down the outlines of such a scheme, I am, as I have always been, very far from desiring to press any Government or Legislature to commit itself finally to so grave a step as that of Confederation, without clearly understanding what it implies. . . . In order to be successful and enduring, Confederation should be the result of a clear conviction on the part of each State entering into it, that its political, social, and material interests, as a whole, will be advanced. . . .

As regards the representation of the Cape at a Conference (for the objection to the holding of any Conference at all was of course an error which I need not notice), I understand the Colonial Government to be left free to act at any future time as it may deem best. . . .

The termination of the late debates in Parliament closes the most important era which has occurred in the history, not only of the Cape Colony, but of South Africa. It is most essential that the grave questions which have been raised should now be calmly and deliberately considered in all their aspects. If this is undertaken in a generous and ungrudging spirit, it is not unreasonable to hope that the scattered communities of South Africa, now weakened by their isolation and retarded by conflicting interests, will, at no distant day, be united into one of the most considerable dependencies of the British Crown.

XI. Replies of certain of the Governments of the South African Colonies and States to the invitation of the Earl of Carnarvon to a Conference in England.

[Parl. Pap., C. 1631.]

(*a*) Extract from the Votes and Proceedings of the Cape House of Assembly, 9 June, 1876.

[p. 43]. The following motion [was] proposed by the Colonial Secretary, seconded by Mr. Pritchard:—This House desires to express its approval of the action taken by the Government . . . consequent on the Resolution agreed to by the House in the Special Session of November, with the view of giving the counsel and assistance of this Government in settling the difficulties which have arisen out of the extension of British jurisdiction to Griqua-Land West; and the House further approves of the suggestion made in the same Minute that Mr. Molteno, while in England, should also discuss with the Right Honourable the Secretary of State for the Colonies any further matters which might be considered desirable; and thus, among other advantages resulting therefrom, afford Her Majesty's Government the opportunity which Lord Carnarvon states that he considers expedient of explaining "more specifically the general principles upon which they are of opinion that the native policy of the future should be based, and the terms and conditions upon which they conceive that a Confederation might be effectively organized."

By 32 votes against 24 the inclusion of the words from "and the House further approves" down to the end of the motion was negatived and the resolution was passed without a division in its truncated form.

(*b*) His Honour the President of the Orange Free State to the Earl of Carnarvon, Secretary of State for the Colonies.

Royal Cambridge Hotel,
19 *July*, 1876.

[p. 47]. I have the honour to inform your Lordship that I have been empowered by the Volksraad of the Orange Free State, if invited thereto by Her Majesty's Government, either myself to take part in a Conference to be held in London, or to appoint some one to represent the Orange Free State Government in such Conference, for the purpose of discussing the question of the sale of firearms and ammunition, and an uniform law for the natives of South Africa; with this proviso, that no resolution will have any binding force on, or be of any effect to, the Orange Free State, until the same shall have been approved of by the Volksraad. . . .

But with respect to the subject of Confederation, the Volksraad passed a Resolution on the 11th February, of which the following is a translation:—

"The Volksraad empowers the State President on behalf of the Government of the Orange Free State, to acquaint Her Majesty's Government that, although the Government of this State earnestly desires to cultivate the most friendly relations with Her Britannic Majesty's Government and the Colonies in South Africa, the population and Government of this State steadfastly continue to cherish the earnest desire to preserve and maintain their independence, and cannot, therefore, take part in a negotiation with respect to a Confederation of the Colonies and States of South Africa, by which the independence of this State can be endangered."

(*c*) Address of the Legislative Council of Natal, to Sir Henry Ernest Bulwer, Lieutenant-Governor in and over the Colony, 1 June, 1876.

[p. 52]. The Legislative Council beg respectfully to inform your Excellency that they have appointed the

Honourable Member for the City of Maritzburg (Mr. Akerman) and the Honourable Member for the Borough of Durban (Mr. Robinson) to represent the Colony at the Conference to be held in London; and further, that, as the Council consider the Conference is only held for the purpose of consulting with the Representatives of the different Colonies and States of South Africa, and not with the view of binding the Governments of the latter to any particular policy, they earnestly desire that, if possible, seats for both of the delegates may be allowed at the Conference.

XII. Extracts from Speech of the Earl of Carnarvon to the Conference concerning South African Affairs,[1] 3 August, 1876.

[Parl. Pap., C. 1631, pp. 62-66.]

As regards the subjects with which we have to deal, you will doubtless remember that the question of the Conference has been greatly mixed up with my original suggestions for Confederation. . . . On this point, it is right that I should say a few words. . . . It is important . . . that I should explain that I have never considered it necessary that each separate member of the confederated body should have one and the same identical constitution. I think that, on the contrary, each member of it might well retain its own laws, customs, traditions, and mode of procedure, reserving only a certain limited number of subjects for discussion and administration by

[1] The Conference met at the Colonial Office with the Earl of Carnarvon as President and Major-General Sir Garnet Wolseley in the Vice-Chair. The Orange Free State was represented by President Brand, Natal by Sir Theophilus Shepstone, Messrs. Akerman and Robinson also being present, and Griqua-Land West was represented in the absence of any special delegate by Mr. J. A. Froude, as personally acquainted with the Province and its requirements. Mr. J. C. Molteno formally declined to attend the Conference as a course opposed to the spirit and intention of his instructions.

the central Legislature and Government. This limitation, usual in any form of Confederation, would be particularly convenient in South Africa, where the several native tribes are very different in their wants, their civilisation, and their character; and where, on the other hand, those tribes, separately and collectively, may easily constitute a serious and common danger to the whole European population. It seems to me now, as it has seemed to me in time past, that it is very desirable, by a certain unity of action on the part of the European communities, to reduce, as far as possible, that common danger, by securing at least a principle of well-considered co-operation on their part. The bundle of sticks may be tied together very loosely or very tightly, but, provided that there is common action, the object is secured. This, I apprehend, is the meaning of Confederation. . . .

So far as the Colonies themselves are concerned, such a system would open up a wider area of public life; would raise the standard of political action and thought; would give higher views, and engender a stronger sense of public responsibility. It would most certainly create strength, diminish the risk which is inseparable from the existence of these great native tribes, preserve the European communities from sudden panics, and tend at least to tranquillise the native mind, because the natives would see in times of disturbance that there was little chance of their being able to combine for mischief. And thus the ultimate result would be to raise and improve and consolidate with the European communities the native races. But further, it is clear that the effect of Confederation would be to give to these great Colonies even a fuller and larger measure of self-government than that which has yet been accorded to them; and from that point of view I look upon it as a distinct step towards that consumma-

tion which is now so nearly achieved in some parts of Her Majesty's Dominions, where loyalty to the Crown and a certain and appreciable amount of control on particular questions by the Imperial Government can be practically combined with the fullest and most ample measure of self-government.

[Lord Carnarvon then proceeded to indicate the arms traffic and various native problems as necessary for discussion by the Conference.]

There may be other matters which may grow out of our deliberations. . . . There are also, no doubt, some considerations which belong to the Empire. It would be idle, as it would certainly be contrary to my intention, to ignore the fact that there are Imperial interests in South Africa of the highest possible value, interests which affect not only England, but India, Australia and New Zealand, as well, indeed, as many other Colonies. There has sometimes been misapprehension on this point, and it has been supposed that there might be indifference on the question, or even some disposition here at home to neglect those considerations. No one could fall into a greater mistake. There is certainly not the slightest intention of abandoning any Imperial rights. . . . The number [of troops at the Cape] is undoubtedly in excess at this moment of what strictly Imperial interests may require, though it is of very great advantage to every single member of the European family in South Africa. . . . But England is not, and never has been, niggardly in these matters; she has no desire to make up a strict debtor and creditor account; she accepts freely her position as the paramount Power of South Africa, with its duties and its responsibilities; and whilst determined steadily to maintain her Imperial interest there, she rejoices to use her great power and means for the advantage of her Colonies and her neighbours. . . .

XIII. Address of the South African Confederation Deputation to the Secretary of State for the Colonies, 26 October, 1876.

[Carnarvon, Earl of, "Speeches on the Affairs of West and South Africa." (Privately printed), 1903, pp. 228-230.]

May it please your Lordship—The undersigned Cape merchants and others connected with South Africa have been moved to address your Lordship, as Her Majesty's principal Secretary of State for the Colonies, on the present critical situation of affairs in South Africa, consequent on the Transvaal outbreak,[1] from a conviction that, unless the war now raging there is promptly put an end to, it will soon issue in consequences of a very disastrous character to the adjoining British Colonies, as well as to the Transvaal Republic itself.

These Settlements, it is felt, are in no condition of preparedness through any existing effective organisation of their collective strength to meet the dire contingency of a spread of the war within their borders, and the consequences of a want of concerted action in such an event are fearful to contemplate.

It has to be confessed that the blame of this state of things cannot fairly be charged to Her Majesty's Government, your Lordship, as principal Secretary of State for the Colonies, having, immediately after the Langalibalele outbreak in 1874, then strongly pressed upon the European communities and Governments in South Africa the expediency of at once giving their attention to the consideration of some union policy for these communities for the future; but your Lordship's counsels in that direction were met at the time by strong objections from an influential section of politicians in Cape Colony, and little, if any, advance in consequence was then made with the question.

[1] The War with Sikukuni (Secocoeni).

It is satisfactory to the subscribers hereto, however, now to be able to bring to the attention and knowledge of your Lordship that the objections which were at first so strongly urged against your Lordship's suggestions for a confederation or union of policy, to give strength and compactness to the communities of European origin in South Africa, are no longer heard, but that those very organs of public opinion in Cape Colony, which in the first instance put them forward with so much warmth, are now the foremost to complain, that if a confederation or union policy for South Africa had been timeously accepted, the Transvaal war [with Sikukuni] itself would not and could not have occurred.

Nor is it within the British Settlements alone that the idea of a confederation or union policy as the best future for South Africa, if tranquillity, order, and prosperity are to be assured to it, is thus almost universally approved. A cry comes across from the Transvaal itself, or at any rate from a large section of its people, taught their own weakness and insecurity by the bitter experiences of the present war, for immediate admission into some union of strength with the British communities.

Under these circumstances the undersigned desire to press, through your Lordship, upon the consideration of Her Majesty's Government, the urgency of now adopting early measures in the direction of the policy counselled at the close of the Langalibalele outbreak. It is felt that with your Lordship the initiative now rests. The Imperial Government alone has authority to speak and to act within all the Settlements; any measure by which these may be confederated into a single powerful dominion must be an Imperial measure; and, not until Her Majesty's Government has performed its first part, can the South African communities stir effectively in the performance of their subsequent parts.

XIV. Extracts from Speech of Earl of Carnarvon, Secretary of State for the Colonies, in the House of Lords on the Second Reading of the South African Confederation Bill, 23 April, 1877.

[Hansard, "Parliamentary Debates," March-April, 1877, cols. 1645-1657.]

It is now, my Lords, ten years since I had the honour of moving the second reading of the Bill for the Confederation of the Dominion of Canada, which Bill became law from that time. The Bill now before your Lordships is founded in a great measure on that statute, but there are analogies and differences which, though I cannot explain at length, I may in a very few words indicate. Analogies will be found in the variances of race, language, creed, and laws; the difference consists in that great native question which has long been, and must be for many years to come, the hinge upon which South African policy must turn. . . . My noble friend (Lord Cardwell) who preceded me in the Colonial Office, in 1867, and who had, with no common patience and ability, brought the Canadian measure into such shape that I was enabled to bring it to a practical conclusion, will remember that, for a very long time before that measure was introduced, the subject of a Confederation of the Canadian Provinces had been much discussed in this country and in Canada, and that before the Bill was brought before the Imperial Parliament almost every point of difficulty and controversy had been brought into the way of settlement by personal explanation and preliminary discussion. The same thing cannot be said in respect of this Bill. Although the question of Confederation in South Africa has been much discussed, many matters of opinion are necessarily still left in doubt. Consequently, as Her Majesty's Government

thought that a measure for Confederation ought not to be longer delayed, they have been compelled, when framing this Bill, to pursue a different course from that which was adopted in the case of the Canadian Act. The Bill before your Lordships is one of outline and principle. It is one containing the framework of a future Confederation, but leaving the details to be filled up after free communications between the Imperial and local Governments. It is essentially permissive—one by which no sort of pressure would be put on the Colonies, while it will at the same time give them every opportunity of confederating, if they should think it advisable to do so. . . .

It is, my Lords, hardly necessary, perhaps, to give special reasons why a Confederation of the South African Colonies is desirable. The subject is one on which public opinion locally has veered towards the present conclusion, whilst in England it has never wavered. It is, moreover, manifest that great difficulties must present themselves as long as different systems in important branches of administration prevail in the different Colonies. . . . As regards the franchise, in the Cape the natives have it and use it; in Natal, there are restrictions such as to prevent the use of it; and in the Dutch Colonies the natives have no franchise. . . .

Now, if there were a united Government by means of a Confederation, there would be probably better, more uniform, and more even arrangements. A strong Government would respect itself and be respected by the natives. Under such a Government there would be less danger of insurrection among the natives, and less chance of panic on the part of the Colonists. . . . Under a large and common system of government in South Africa many public works which are now neither undertaken nor dreamt of, would become possible. That which is not the business of any one individual member of the

family politic is the business of none; and considering her great resources, and, indeed, her great necessities, it must be deemed that in this part of the race of civilisation South Africa is somewhat, though very excusably, in arrear. But perhaps of all the changes which this measure may produce, I anticipate with the advent of political and administrative union none more hopefully than a real union in sentiment of the Dutch and British races. The old quarrel to which I have alluded is dying out, and is fast becoming a thing of the past; real friendliness exists under the crust of political discord. . . . I may even go further, and point out that the earlier history of the question not unreasonably leads me to the belief that Confederation is no uncongenial idea to any of the Colonies or States of South Africa.

[We have the evidence of this in:—

(*a*) The resolution of the Orange Free State Raad in 1858.

(*b*) The Cape Commission on Federation in 1871.

(*c*) The resolutions of the Legislative Council of Natal and Griqua-Land West and the Transvaal Volksraad in 1875 concerning the proposal for a South African Conference.]

I hear that considerably more than a fourth of the male population of the Transvaal have signed a petition praying for an intervention by Her Majesty's Government in the affairs of that distracted province. Nor even yet is this all. In the autumn of last year [1] I held a Conference in London, in which the President of the Orange Free State and representatives of Natal and Griqua-Land took part, and in which they unanimously agreed upon the expediency of a common system of police, of the regulation of arms, of the sale of spirituous liquors, of industrial education—in fact of many of the

[1] 3 August, 1876.

primary and most important elements of a common government. . . .

And now in explanation of the Bill itself. About two months ago, in redemption of a pledge given at an earlier period, I sent out a Bill for consideration in South Africa, which will be found in the Blue Book which last week I laid on the table of the House. That Bill met, as I consider, with a fair and favourable reception in South Africa. At the same time, there were comments and criticisms, some of which I thought so reasonable that I have in a great measure recast the Bill so as to bring it to the shape in which it is now before your Lordships. It will not require much explanation. The first part deals with the voluntary union of the various Colonies and States; the next with the Executive power, and the next with the Legislature and the distribution of legislative powers. The third clause enables the union of Colonies or States under the British Crown; and it deals with such Confederation on general principles. The details will be considered by the Imperial and the local Governments, and having been duly adjusted will be announced by Order in Council from Her Majesty. . . .

Next, as to the legislative authority. I propose, as will be anticipated, and in conformity with the usual course, the system of a double Chamber. In the original draft I thought it best to propose that one of the Chambers should be a Council nominated by the Crown; but considerable objection to that proposal has been taken in South Africa, and I feel no difficulty in leaving the question in abeyance. . . . The Legislative Council at the Cape under its present Constitution is elective, and if there be a strong inclination in South Africa generally to adhere to that principle of organisation, I certainly should not care to oppose it.

And now as to the Assembly. In the original draft

of the Bill I went into considerable and minute details, founded very much on the Canadian precedent; but I have thought it better to submit this part of the Bill at present in outline, and to leave the constitution of the Assembly to be a matter of discussion between the local and Imperial Governments. This is in a great measure due to that most difficult and all-disturbing cause, the native question. Let me give an illustration. The Colony of the Cape has a very large number of natives, and to them it accords the franchise. The Colony of Natal has proportionately a larger number of natives, but from them it virtually withholds the franchise. But if representation under the Confederation is to be based on numbers, exclusive of the natives, it is clear that the Cape would obtain an undue share of Parliamentary power, and the interests of Natal would be placed at a disadvantage. It is necessary, therefore, to look for another principle, which I think may with patience be found, but which it will be necessary to have fully discussed between the parties concerned. It is proposed that the Assembly should be quinquennial, and that there should, for obvious reasons, be a decennial re-adjustment of the franchise.

I next come to the Provincial Governments. The Bill provides that each province shall be presided over by a chief Executive officer, to be designated and appointed in such manner as the Queen may determine. If the union of these Colonies is desirable, it is equally desirable that we should not sweep away the life and individuality of the different provinces. They have a very distinct and remarkable character of their own; they cherish their own history, traditions, and customs; and from them I would desire to tear no portion of their past existence. There is nothing in this Bill which injuriously touches this important matter.

The next few clauses are in themselves very important,

as they refer to the distribution of legislative power. They are in a great measure founded on the Canadian model, with such modifications as are necessary. The principle is that there shall be certain powers reserved exclusively for the Central Government, certain others reserved exclusively for the Provincial, and certain which are concurrent between the two; whilst, however, [there] is assigned to the Central Authority the consideration of native questions, every law on such subjects will be reserved for the sanction of Her Majesty at home, and that control over native affairs which must, under present circumstances, still be preserved to this country will be upheld. As for the remainder of these clauses, there is nothing in them to which I need call special attention. They contain provisions for consolidating revenue, for apportioning charges, for the abolition of all Customs duties between the Confederate States, so as to secure complete union in commercial matters, and, finally, for the admission of other States that might desire to enter the union.

XV. Right Hon. Earl of Carnarvon, Secretary of State for the Colonies, to Sir Bartle Frere, High Commissioner in South Africa, Conveying the South Africa Act, 16 August, 1877.

[Parl. Pap., C. 1980, p. 22.]

Downing Street,
16 *August*, 1877.

It is desirable that I should observe briefly on the two principal representations which have been made by your Government, the first to the effect that a Union under one Government would be preferable to a Confederation containing a number of important Provincial Governments. . . . With regard to the first point, I must observe that, for my own part, looking to the diversities

of origin, custom, and language existing among the various communities which it is desired to bring together, I continue to doubt whether the balance of practical convenience will not be found to incline towards leaving a material proportion of local details to be discussed and administered provincially. The Act, however, is so framed as to enable the Crown, after ascertaining the wishes of the communities who desire to confederate, to provide that that degree of importance and authority should be assigned to the Provincial Councils which may best accord with the general view of what is most advantageous. . . .

The only other amendment which I need specially notice, is the introduction of a clause limiting the power of the Queen to inaugurate any Confederation or Union under the Act to a term of five years. . . . Considering the enabling and general character of the measure, the constantly changing circumstances, and the probably rapid development of material prosperity in South Africa, I thought it only reasonable to accept a limitation which, while it affords full time for the consideration of any such action as I hope will now be taken, will, in the event of a prolonged delay in the establishment of a Union, allow the Imperial Parliament to consider again in 1882, whether the arrangements, now generally thought desirable, would then be still appropriate. . . .

You have, however, intimated to me your opinion that it might be practicable and useful to arrange for an early meeting of representatives of the several Governments to consider the question generally, and to exchange opinions and explanations such as might facilitate the subsequent discussion of the subject in their respective legislatures. I desire to leave it to your discretion and judgment to decide whether and when any proposal for such a meeting or conference should be made.

XVI. South Africa Act (40 and 41 Vict., cap. 47), 13 August, 1877.

[Parl. Pap., C. 1980, pp. 35-41.]

An Act for the Union under one Government of such of the South African Colonies and States as may agree thereto, and for the Government of such Union; and for purposes connected therewith. [13 August 1877.]

Whereas proposals have been made for uniting under one Government under the Crown of the United Kingdom of Great Britain and Ireland those colonies and states of South Africa which may voluntarily elect to enter into such Union:

And whereas such Union would conduce to the welfare of the said colonies and states and promote the interests of the British Empire, and it is expedient to make provision for any two or more of the said colonies or states to unite at such time as may be found convenient:

And whereas it is expedient to declare and define the general principles on which the constitution of the legislative authority and of the Executive Government in the Union may be established, and to enable the details of the said constitution and of the administrative establishments thereunder to be provided for after the wishes and opinions of the said colonies and states with respect to such details have been duly represented to Her Majesty through their respective Legislatures:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by authority of the same, as follows:

I. Preliminary.

1. This Act may be cited as The South Africa Act, 1877.

2. The provisions of this Act referring to Her Majesty the Queen extend also to her heirs and successors.

II. Union.

3. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, to declare by Order in Council that, on and after a day therein appointed, any two or more of the colonies or states of South Africa whose respective Legislatures may so agree shall be joined or confederated together in Union under one general Government and Legislature, with such name and designation as to Her Majesty may seem fit; and on and after that day the said general Government and Legislature of the Union shall have full power and effect within the said colonies or colonies and states which shall have so agreed.

It shall be lawful for the Queen, by and with the advice of Her Majesty's Privy Council, by any subsequent Order in Council issued before the first assembling of the Union Parliament, to alter or amend the said Order in Council, or to provide for any matters or things as to which Her Majesty is authorised by this Act to make provision, and which are not provided for in the said Order in Council; but no such Order in Council shall be issued under the provisions of this section after the first assembling of the Union Parliament.

In any such Order in Council as aforesaid the Queen may make provision for all or any of the matters as to which she is by this Act empowered to give directions, as well as for any other matters necessary to the due establishment of the Union, and before making such provision shall have regard to any representations that may be made to Her Majesty by or by the authority of the Legislature of any state or colony concerned, or by any committee or other body duly appointed by any

two or more of the said Legislatures jointly to consider the subjects mentioned in this Act.

4. The subsequent provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the day appointed for the Union taking effect; and in the same provisions, unless it is otherwise expressed or implied, the words "the Union" shall be taken to mean the Union of South African colonies or colonies and states provided for by this Act.

5. The Union shall be divided into such provinces, with such names and boundaries as the Queen may direct.

III. Executive Power.

6. The Executive Government and Authority of and over the Union is hereby declared to be vested in the Queen, and may be exercised on Her Majesty's behalf by the Governor-General or the officer appointed to administer the Government by or by authority of Her Majesty's Royal Letters Patent.

7. The provisions of this Act referring to the Governor-General extend and apply to the Governor-General for the time being of the Union, or other the Chief Executive Officer or Administrator for the time being carrying on the Government of the Union on behalf and in the name of the Queen, by whatever title he is designated.

8. There shall be a Great Seal for the Union, of such device as Her Majesty may approve.

9. There shall be a council to aid and advise in the government of the Union, to be styled the Privy Council of the Union; and the persons who are to be members of that council shall be from time to time chosen and summoned by the Governor-General, and sworn in as privy councillors, and may be from time to time removed by the Governor-General.

10. All powers, authorities and functions which are at the Union lawfully vested in or exercisable by the respective Governor, Lieutenant-Governor, Administrator, or President of a Colony or State, with the advice, or with the advice and consent, of the Executive Council or other administrative body thereof, or in conjunction with such council or body, or with any number of members thereof, or by the said Governor, Lieutenant-Governor, Administrator, or President individually, or by Her Majesty's High Commissioner for South Africa, shall (as far as the same continue in existence and capable of being exercised after the admission of such Colony or State into the Union), in relation to the Government of the Union, be vested in and exercisable by the Governor-General, with the advice, or with the advice and consent of, or in conjunction with the Privy Council of the Union, or any members thereof, or by the Governor-General individually, as the case requires, subject nevertheless to be abolished or altered by the Union Parliament.

11. The provisions of this Act referring to "the Governor-General in Council" shall be construed as referring to the Governor-General acting by and with the advice of the Privy Council of the Union, and where "the Governor-General" alone is mentioned the provision shall be construed as referring to the Governor-General acting on his own discretion and without such advice.

12. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorise the Governor-General from time to time to appoint any person or any persons jointly or severally to be his deputy or deputies within any part or parts of the Union, and in that capacity to exercise during the pleasure of the Governor-General such of the powers, authorities, and functions of the Governor-General as he may deem it necessary or expedient to

assign to him or them, subject to any limitations or directions expressed or given by the Queen in conformity with the constitutional laws of the Union; but the appointment of such a deputy or deputies shall not affect the exercise by the Governor-General himself of any power, authority, or function.

13. The command-in-chief of the land and naval militia, and of all naval and military forces, of and in the Union, is hereby declared to be vested in the Queen.

14. The seat of Government of the Union shall be such place as the Queen may direct.

IV. Legislative Power.

15. There shall be one general Legislature for the Union (in this Act called "the Union Parliament"), consisting of the Queen, an Upper House hereinafter styled the Legislative Council, and a House of Representatives hereinafter styled the House of Assembly; provided that either of the said Houses may receive such other designation as the Queen may direct.

16. The privileges, immunities, and powers to be held, enjoyed and exercised by the Legislative Council and by the House of Assembly and by the members thereof respectively shall be such as are from time to time defined by Act of the Union Parliament, but so that the same shall never exceed those at the time of the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the members thereof; and until the passing of such Act the said privileges, immunities, and powers, shall be the same as those at the time of the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the members thereof.

17. The Union Parliament shall be called together not later than twelve months after the Union.

THE LEGISLATIVE COUNCIL.

18. The Legislative Council shall, subject to the provisions of this Act, consist of such number of members, representing such divisions of the Union, and shall be so constituted as the Queen may direct.

THE HOUSE OF ASSEMBLY.

19. The House of Assembly shall, subject to the provisions of this Act, consist of elected members, representing in fair proportions the various provinces of the Union; and until the Union Parliament otherwise provides, the provinces shall for the purposes of the election of members to serve in the House of Assembly be divided into such electoral districts returning such number of members respectively, and the electors and members shall have such qualifications, and the elections shall be conducted according to such rules and regulations, as the Queen may direct: Provided always, that in the apportionment of members, and in the determination of the qualifications of electors and members, provision shall be made for the due representation of the natives in the Union Parliament and in the Provincial Councils, in such manner as shall be deemed by Her Majesty to be without danger to the stability of the Government.

20. The Governor-General shall from time to time, but at least once a year, in the Queen's name, by instrument under the Great Seal of the Union, summon and call together the House of Assembly.

21. A census of the Union shall be taken in the year one thousand eight hundred and ninety-one, and at the end of each subsequent period of ten years, and on the completion of every such decennial census, the representation of the provinces may be re-adjusted by such

authority, in such manner, and from such times as the Union Parliament from time to time provides, subject and according to such rules as the Queen may direct.

Such re-adjustment shall not take effect until the termination of the then existing Parliament.

22. The number of members of the House of Assembly may be from time to time increased by the Union Parliament, provided that the proportionate representation for the time being in force of the provinces is not thereby disturbed.

MONEY VOTES, ROYAL ASSENT.

23. Bills for appropriating any part of the public revenue, or for imposing any tax or impost, shall originate in the House of Assembly.

24. It shall be not lawful for the House of Assembly to adopt or pass any vote, resolution, address, or Bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to that House by message from the Governor-General in the session in which such vote, resolution, address, or Bill is proposed.

25. Where a Bill passed by the Houses of the Union Parliament is presented to the Governor-General for the Queen's Assent, he shall declare, according to his discretion, but subject to the provisions of this Act and to Her Majesty's instructions, either that he assents thereto in the Queen's name, or that he withholds such assent, or that he reserves the Bill for the signification of the Queen's pleasure, or that he will be prepared to assent thereto, subject to certain amendments to be specified by him.

26. Where the Governor-General assents to a Bill in the Queen's name, he shall, by the first convenient opportunity, send an authentic copy of the Act to one of Her Majesty's Principal Secretaries of State, and if

the Queen in Council, within two years after receipt thereof by the Secretary of State, thinks fit to disallow the Act, such disallowance (with a certificate of the Secretary of State of the day on which the Act was received by him) being signified by the Governor-General, by speech or message to each of the Houses of the Union Parliament or by proclamation, shall annul the Act from and after the day of such signification.

27. A Bill reserved for the signification of the Queen's pleasure shall not have any force unless and until, within two years from the day on which it was presented to the Governor-General for the Queen's Assent, the Governor-General signifies, by speech or message to each of the Houses of the Union Parliament or by proclamation, that it has received the assent of the Queen in Council.

An entry of every such speech, message, or proclamation shall be made in the Journal of each House, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the records of the Union.

V. Provincial Government.

28. Each province shall be presided over by a Chief Executive Officer bearing such title and appointed and removable in such manner as the Queen may direct.

29. Until altered by Act of the Union Parliament, the salaries of such officers shall be such as the Queen may direct.

30. Every such officer shall, before assuming the duties of his office, make and subscribe before the Governor-General, or some person authorised by him, oaths of allegiance and office similar to those taken by the Governor-General.

31. The provisions of this Act referring to such officer shall extend and apply to the Chief Executive Officer or Administrator for the time being carrying on the Gov-

ernment of any province, by whatever title he is designated.

PROVINCIAL COUNCILS.

32. There shall be a Council or Parliament for each province, consisting of the Chief Executive Officer and a House or two Houses of Legislature, and of such number of councillors, or councillors and members of Assembly, elected in such manner and for such term as the Queen may direct.

VI. DISTRIBUTION OF LEGISLATIVE POWERS.

POWERS OF THE UNION PARLIAMENT.

33. It shall be lawful for the Queen, by and with the advice and consent of the Legislative Council and House of Assembly, to make laws for the peace, order, and good government of the Union, in relation to all matters not coming within the classes of subjects by this Act assigned to the councils of the provinces; and for greater certainty it is hereby declared that (notwithstanding anything in this Act) the legislative authority of the Union Parliament extends to all matters coming within the classes of subjects next hereinafter enumerated; that is to say,

(1) The qualification of electors and members of the Legislative Council and House of Assembly, and other questions relating to the constitution, privileges, and proceedings of either of the said bodies, but always subject to the provisions of this Act relating to the representation of natives.
(2) The public debt and property.
(3) The regulation of trade and commerce.
(4) The raising of money by any mode or system of taxation.
(5) The borrowing of money on the public credit of the Union.
(6) Postal service and telegraphs.

(7) The census and statistics.
(8) Militia, military and naval service, and defence, saving all matters and things relating to the troops, ships, property, and prerogatives of the Crown not heretofore placed under the jurisdiction of the Colonial Governments.
(9) The fixing of and providing for the salaries and allowances of civil and other officers of the Government of the Union.
(10) Beacons, buoys, lighthouses.
(11) Navigation and shipping.
(12) Quarantine and the establishment and maintenance of marine hospitals.
(13) Fisheries.
(14) Bridges or ferries between a province and a foreign state or between two provinces.
(15) Currency and coinage.
(16) Banking, incorporation of banks, and the issue of paper money.
(17) Savings banks.
(18) Weights and measures.
(19) Bills of exchange and promissory notes.
(20) Interest.
(21) Legal tender.
(22) Bankruptcy and insolvency.
(23) Patents of invention and discovery.
(24) Copyrights.
(25) Affairs of native tribes or peoples who are not included under the laws applicable to the general community.
(26) Naturalisation and aliens.
(27) Marriage and divorce.
(28) The criminal law.
(29) The establishment, maintenance, and management of gaols, hospitals, asylums, and other public institutions for the use of the Union generally.

(30) Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this Act assigned exclusively to the councils of the provinces.

(31) Such other subjects herein assigned to the councils of the provinces as the council of any province may by law declare to be within the competency of the Union Parliament in respect of such province.

EXCLUSIVE POWERS OF PROVINCIAL COUNCILS.

34. In each province the council may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, and not included among the subjects hereinbefore assigned to the Union Parliament; that is to say,

(1) The qualification of electors and members of the Provincial Council, but always subject to the provisions of this Act relating to the representation of natives.

(2) Direct taxation within the province in order to the raising of a revenue for provincial purposes.

(3) The borrowing of money on the sole credit of the province.

(4) The establishment and tenure of provincial offices and the appointment and payment of provincial officers.

(5) The management and sale of the public lands belonging to the province, and of the timber and wood thereon.

(6) Education.

(7) The establishment, maintenance, and management of public and reformatory prisons in and for the province.

(8) The establishment, maintenance, and management of hospitals, asylums, charities, and ele-

emosynary institutions in and for the province other than marine hospitals.

(9) Municipal institutions in the province.

(10) Licences for trading and other purposes in order to the raising of a revenue for provincial, local, or municipal purposes.

(11) Local works and undertakings other than such as are of the following classes:

(*a*) Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the province with any other or others of the provinces, or extending beyond the limits of the province:

(*b*) Lines of steamships between the province and any British or foreign country:

(*c*) Such works as, although wholly situate within the province, are before or after their execution declared by the Union Parliament to be for the general advantage of the Union or for the advantage of two or more of the provinces.

(12) The incorporation of companies with provincial objects.

(13) The solemnisation of marriage in the province.

(14) Property and civil rights in the province.

(15) The administration of justice in the province, including the constitution, maintenance, and organisation of provincial courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those courts.

(16) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section.

(17) The registration of titles to land.

(18) Generally all matters of a merely local or private nature in the province.

35. In each province the council may make laws in relation to immigration into the province; and it is hereby declared that the Union Parliament may from time to time make laws in relation to immigration into all or any of the provinces; and any law of a provincial council relative to immigration shall have effect in and for the province as long and as far only as it is not repugnant to any Act of the Union Parliament.

36. It shall not be lawful for the council of any province to adopt or pass any vote, resolution, address, or law for the appropriation of any part of the provincial revenue, or of any tax or impost, to any purpose that has not first been recommended to the council by the chief executive officer.

37. The distribution of legislative powers between the Union Parliament and the councils of the provinces provided in the four last preceding sections of this Act may be varied by any Order in Council issued in pursuance of section three of this Act, and nothing in this Act shall be deemed to affect or limit in any way the power of the Queen, with the advice and consent of the Lords Spiritual and Temporal and the Commons, of the United Kingdom of Great Britain and Ireland, in Parliament assembled, to make any law relating to the Union.

38. Every law made by a provincial council shall be forthwith transmitted to the Governor-General, who shall proceed with regard to such law in the same manner as is hereinbefore provided with respect to Bills passed by the Union Parliament.

VII. Revenues; Debts; Assets; Taxation.

39. All duties and revenues lawfully raised within the Union, except such portions thereof as are reserved to the respective councils of the provinces, or are raised

by them in accordance with the special powers conferred on them, shall form one Consolidated Revenue Fund, to be appropriated for the public service of the Union in the manner and subject to the charges in this Act provided.

40. The Consolidated Revenue Fund of the Union shall be permanently charged with the costs, charges, and expenses incident to the collection, management, and receipt thereof, and the same shall form the first charge thereon, subject to be reviewed and audited in such manner as shall be ordered by the Governor-General in Council until the Union Parliament otherwise provides.

41. The annual interest of the public debts of each colony or state joining the Union shall, so far as they are in this Act declared to be a charge upon the Union, form the second charge on the Consolidated Revenue Fund of the Union.

42. Unless altered by Act of the Union Parliament, the salary of the Governor-General shall be not less than eight nor more than ten thousand pounds per annum sterling money of the United Kingdom of Great Britain and Ireland payable out of the Consolidated Revenue Fund of the Union, and the same shall form the third charge thereon.

43. Subject to the several payments by this Act charged on the Consolidated Revenue Fund of the Union, the same shall be appropriated by the Union Parliament for the public service.

After due provision has been made for the public service of the Union, any surplus of the consolidated revenue of the Union which may in any year be so appropriated by the Union Parliament shall be divided among the provinces in such proportions as the Queen may direct, or the Union Parliament may provide.

44. The Union shall be liable for so much of the

public debt of each province existing at the Union as the Queen may direct, and the said provincial debts may, by Act of the Union Parliament, be consolidated into one stock.

45. The Union may assume any lands or public property required for fortifications or for the defence of the country.

46. All payments to be made under this Act, or in discharge of liabilities created under any law of the colonies, states or province respectively, and assumed by the Union, shall, until the Union Parliament otherwise enacts, be made in such form and manner as may from time to time be ordered by the Governor-General in Council.

47. All articles of the growth, produce, or manufacture of any one of the provinces shall, from and after the Union, be admitted free into each of the other provinces.

48. All duties and revenues raised or received by the respective governments or councils of the provinces, in accordance with the special powers conferred upon them by this Act, shall in each province form one Consolidated Revenue Fund to be appropriated for the public service of the province.

VIII. Miscellaneous Provisions.

49. Every member of the Legislative Council or House of Assembly of the Union, and every member of a council of any province, shall, before taking his seat therein, take and subscribe before the Governor-General or some person authorised by him, the oath of allegiance contained in the schedule to this Act.

50. Except as otherwise provided by this Act, or by any Order in Council issued under section three of this Act, all laws in force in the colonies and states respectively at the Union, and all courts of civil and criminal jurisdiction, and all legal commissions, powers and

authorities, and all officers, judicial, administrative, and ministerial, existing therein at the Union, shall continue in the provinces situate within what at the said Union are the boundaries of those colonies and states respectively, as if the Union had not been made; subject nevertheless to be repealed, abolished, or altered by the Union Parliament, or by the council of the respective province, according to the authority of the Parliament or of that council under this Act.

51. The Union Parliament may, notwithstanding anything in this Act, from time to time provide for the constitution, maintenance, and organisation of a Supreme Court of Judicature and of a General Court of Appeal for the Union and for the establishment of any additional courts for the better administration of the laws of the Union: Provided always, that no Act of the said Union Parliament shall extend or be construed to extend to take away or abridge the undoubted right and authority of Her Majesty, her heirs and successors, upon the humble petition of any person or persons aggrieved by any judgment, decree, order, or sentence of the said General Court of Appeal, to admit his, her, or their appeal to Her Majesty in Council from any rule, judgment, decree, order, or sentence upon such terms and securities, limitations, restrictions, and regulations as Her Majesty in Council, her heirs and successors shall think fit.

52. Until the Union Parliament otherwise provides, all officers of the several provinces having duties to discharge in relation to matters other than those coming within the classes of subjects by this Act assigned exclusively to the councils of the provinces shall be officers of the Union, and shall continue to discharge the duties of their respective offices under the same liabilities, responsibilities, and penalties as if the Union had not been made.

53. Until the Union Parliament otherwise provides,

the Governor-General in Council may from time to time appoint such officers as the Governor-General in Council deems necessary or proper for the effectual administration of the affairs of the Union in accordance with this Act.

54. The Parliament and Government of the Union shall have all powers necessary or proper for performing the obligations of the Union or of any province thereof, as part of the British Empire, towards foreign countries, arising under treaties between the Empire and such foreign countries.

55. All laws passed by the Union Parliament or by the Provincial Councils relating to the natives or to native affairs, or relating to immigration, and all laws passed by the Provincial Councils relating to the tenure of land, shall be reserved by the Governor-General for the signification of Her Majesty's pleasure thereon, unless, owing to some urgent emergency, it is necessary for any such law to have immediate operation; but in such case the law shall be transmitted for Her Majesty's pleasure thereon at the earliest possible opportunity.

56. No Act of the Union Parliament shall be deemed to be void or inoperative on the ground that it is repugnant to this Act or to any Order in Council made hereunder, but any such Act containing provisions differing from the provisions of this Act shall be reserved for the signification of Her Majesty's pleasure thereon, and shall not have effect until Her Majesty's pleasure in that behalf has been duly signified.

57. It shall be lawful for the Queen, by and with the advice of Her Majesty's most Honourable Privy Council, on addresses from the Houses of the Union Parliament, and from the Legislature of any colony, state, or province not at the date of such addresses included in the Union, to admit the colony, state, or province into the Union, and on address from the Houses of the Union Parliament to admit any territory, not at the date of such

addresses included in any colony, state, or province, into the Union on such terms and conditions expressed in the addresses as the Queen thinks fit to approve, subject to the provisions of this Act; and the provisions of any Order in Council in that behalf shall have effect as if they had been contained in this Act.

58. It shall be lawful for the Queen, by and with the advice of Her Majesty's most Honourable Privy Council, to authorise the Governor for the time being of the Cape of Good Hope by proclamation to declare that the whole or any portion or portions of any territories in South Africa forming part of Her Majesty's possessions, but not already included in that colony, shall be annexed to and form part of such colony, and the said territories or portions shall be annexed accordingly; provided always, that no such proclamation shall be issued until the Legislature of the Cape of Good Hope shall have passed a law providing that the said territories shall become part of the colony.

59. In case of the admission into the Union of any colony, state or province not originally included in the Union, it shall be entitled to a representation in the Legislative Council and in the House of Assembly proportioned to the representation granted under this Act to the other provinces of the Union, and calculated in the same manner.

60. The powers hereby conferred upon Her Majesty with reference to the first establishment of the Union shall not be exercised after the first day of August one thousand eight hundred and eighty-two, and no such Order in Council made in pursuance of this Act shall have any force or effect unless duly published in the "London Gazette" on or before that date.

61. In this Act—

The words "as the Queen may direct" mean as Her Majesty may direct by any Order in Council issued in pursuance of section three of this Act, but not otherwise.

XVII. Resolution Adopted by the Legislative Council of Natal concerning the Proposed Conference of Delegates of the Colonies and States of South Africa, 3 September, 1878.

[Parl. Pap., C. 2252, p. 10.]

That this Council, having taken into consideration the message . . . of his Excellency the Lieutenant-Governor . . . having reference to the appointment of delegates and the discussion of instructions to be given to them in regard to a conference to be held on the question of the Confederation of the various States and Colonies of South Africa, . . . is of opinion that, in view of the fact that the Cape Parliament has since closed without any action having been taken upon this question . . . this Council desires to renew its expression of willingness to send delegates to such a conference, whenever the Government of the Cape Colony may intimate its readiness to receive and confer with them in conjunction with representatives of the several South African communities; but considers it is inexpedient to appoint such delegates until the Cape Government shall have signified its intention of holding a conference of delegates. . . .

XVIII. Right Hon. Sir M. Hicks-Beach, Secretary of State for the Colonies, to Sir Bartle Frere, High Commissioner in South Africa, concerning the Introduction into the Cape Legislature of a Measure for Confederation, 12 June, 1879.

[Parl. Pap., C. 2454, p. 51.]

Downing Street,
12 *June*, 1879.

. . . In previous communications . . . on the subject of Confederation, you were informed that . . . the consideration of this question might best be commenced by means of a conference of delegates from the Colonies,

to be convened by you at Cape Town. In the existing condition of affairs, this course, which under other circumstances would have been the most convenient, appears no longer practicable. The gentlemen who, from their high official position and local reputation, would most fully represent Natal and the Transvaal, could be ill spared for a prolonged absence in another Colony at the present juncture; while the proceedings of a conference, even if your public duties should enable you to conduct them continuously in person, would be so protracted as to defer that definite action which is now of immediate urgency. I request you, therefore, to consider with your Ministers at the earliest possible moment, whether general proposals for the establishment of a South African Union or confederation may not be submitted to the Cape Parliament, soon after it has assembled. The proposals for this object may very properly originate in the legislature of the principal Colony, to which the privilege of responsible government has been already conceded. They might assume the form of resolutions affirming the expediency of establishing a union, and suggesting such a definite form of Parliamentary Constitution as would, in the opinion of the Cape Parliament, secure a fair share of representation to each of the several members who might be admitted into that Union. In framing such resolutions, due attention would of course be paid to the provisions of the "South Africa Act, 1877." . . .

XIX. Minute of the Ministers of Cape Colony concerning the Introduction of a Measure for Confederation, 10 July, 1879.

[Parl. Pap., C. 2454, p. 158.]

Cape of Good Hope,
10 *July*, 1879.

Ministers . . . desire to assure his Excellency the Governor of their unabated interest in the cause of

confederation, and their anxious desire to co-operate with Her Majesty's Government in the endeavour to unite the provincial Legislature and local Governments of the various Colonies and States of South Africa under one general Government. Ministers appreciate the spirit which animates the proposals of Her Majesty's Government . . . but . . . although deeply interested in the cause of confederation, are unable to advise its consideration as a practical question at the present moment. The whole of the South African communities are anxiously awaiting the result of the war on the Natal and Transvaal frontiers. Pending its settlement, Ministers cannot but feel that to "submit general proposals for the establishment of a South African union or confederation to the Cape Parliament" would be to invite the Legislature to commit itself to unknown responsibilities.

In the event of the war now raging on those frontiers being concluded, and peace established on a satisfactory basis, it will afford Ministers great pleasure to submit to the Legislature proposals . . . in full confidence that they will meet, on the part of the parliamentary representatives of this Colony, with a favourable reception.

XX. Extracts from Speech of Mr. J. Gordon Sprigg, Colonial Secretary of Cape Colony, in the Cape House of Assembly, 22 June, 1880.

[Parl. Pap., C. 2655, pp. 4-15.]

Mr. Speaker, the question which . . . I now bring under the consideration of this House is one momentous indeed in its issues and their bearing upon our future history. . . . The idea of a union of the various communities in South Africa is one which has long occupied public attention in South Africa. So far back as five and twenty years ago, when the present Parliamentary institutions were established in this country, it formed

the subject of some of the addresses which were published in the various constituencies upon the eve of the general election. Coming down from that time, a message on this subject was addressed to the legislature of the colony by that distinguished statesman, Sir George Grey; but that message not having met with the approval of Her Majesty's Government, the question of union or confederation in South Africa may be said to have slept down to the year 1871, when a kindred subject was brought under the notice of the legislature upon the discussions antecedent to the introduction of responsible government. I say a kindred subject, because in intimate relation to the matter which is now under discussion is the question of provincial governments, for some of the strongest opposition that has been raised to the proposal for a union of the various colonies and states of South Africa has been based upon the idea that provincial governments would not work effectually in this part of the world. . . .

On the 1st of June, 1871, Mr. Molteno . . . opened the debate on responsible government, and I desire to refer the House to the resolution which was moved upon that occasion . . . and was ultimately adopted by the House, and it is as follows: "This House is of opinion that the time has come when the system of parliamentary government in this colony should be carried to its natural and legitimate consequence by rendering the executive responsible, through the medium of its principal officers, to the legislature, and thus enabling it, so long as these retain the confidence of that body, to shape the course of public business; and as it is expedient that the colony should be divided into three or more provincial governments for the management of their own domestic affairs, formed into a federative union under a general government for the management of affairs affecting the interests and relations of the

united colony, this House is of opinion that his Excellency the Governor should be requested, by respectful address, to appoint a commission to inquire into and report upon the expediency of such provincial governments, with the federation thereof, and if deemed expedient to inquire into and report upon the arrangements which may be necessary for their introduction and establishment. . . ."

I refer to that resolution for the purpose of showing that it was evidently considered at that time by the majority of this House . . . that a federative form of government was not in itself to be objected to. . . .

Responsible government was agreed to by the legislature, approved by Her Majesty's Government, and adopted by the country; and we were pursuing our course under that form of government until the famous despatch of the 4th May, 1875, burst upon this country, and from that time to the present day the idea of a union of the South African colonies and states has been continually present to the public mind. It will be necessary for me here to go *seriatim* through the public documents relating to this subject, as showing what is the history of this question of union or confederation in this country, as showing what have been the indications of public opinion, and what have been the views entertained by the various administrations which have had the conduct of affairs in this country during the past five years. I find, that on the 11th June, 1875, the following resolution was moved . . . and adopted in this House by a considerable majority. The House will remember what was the character of the despatch which came out from the Secretary of State, dated the 4th of May; that it was a despatch proposing a conference of delegates to discuss various matters more especially relating to the native affairs of this country, and incidentally, as it was contended, that despatch suggested that it would be a

convenient time to take into consideration the question of a confederation of the various colonies and states of South Africa. That was a question which was very much present to the mind of the House at the time when that important despatch was under discussion, and the following resolution was agreed to by a considerable majority in the House upon that occasion: "That this House, without giving any opinion as to the expediency of assembling a conference of delegates of the various colonies and states of South Africa for the purpose of considering the several questions mentioned in the despatch of the Right Honourable the Secretary of State for the Colonies, dated 4th May, 1875, desires to express its approval of the Minute of Ministers upon that despatch, and is of opinion that, this colony being possessed of responsible government, it is desirable that any such proposal as that contained in the despatch should, so far as this colony is concerned, come from its own Government acting in harmony with the legislature, who are best able to judge of the time and occasion on which such a proposal could be considered with most advantage to the people of this colony."

I may remark in passing that the Minute of Ministers upon that despatch was substantially to the effect that they were not in favour at that time of recommending that the colony should go into this conference, and, in fact, that they did not concur with the recommendations contained in that despatch. But the point of the resolution to which I desire more particularly to draw attention is that which refers to the opinion of the House that "such a proposal," so far "as this colony is concerned, should come from its own Government acting in harmony with the legislature." Those who were in the House at the time when that famous despatch was under consideration will recollect that the strong ground of the opposition which led to the proposal then submitted

by that despatch was that this proposal was sprung upon the country, not through the responsible advisers of the Governor, but that, passing by the responsible advisers of the Governor, it was laid before the country, and the strength of our opposition on that occasion was that there was an infringement of the sound constitutional doctrine that if the people of this country were to be addressed by Her Majesty's Government, the proper course to follow was to address them through Her Majesty's advisers in this colony. The question undoubtedly was very much discussed during the time that the despatch was before the House, and many of those who went with the resolution which I have just read were favourable to the principles of confederation, although they objected very strongly to the mode in which it had been brought before the House. . . .

Undoubtedly there were other members of the House who took up a stronger position, and were totally opposed to the principle of a federative form of government in South Africa. . . . But what I wish to draw attention to is, that whereas that was the course taken by the Secretary of State upon that occasion, the Government now are perfectly consistent in bringing this question before the House in the manner in which it is now done. The proposal now springs from the Government of the country, who are the proper and constitutional authorities to bring a question of this magnitude before Parliament, as representing the people of the colony. . . . Sir, the result of that despatch having been sent to this country, and the discussions which took place on it in the legislature of the colony, and its being followed by the arrival of a gentleman . . . having come to this country in some capacity which has never been very strictly defined, but at any rate having been regarded by a very large section of the community as an agent for the purposes of the Imperial

Government, although he might not have been officially instructed to proceed in the way he did; the result of all these things was that very great agitation was created in the country, and consequent upon that agitation an extraordinary session of Parliament was assembled towards the close of the year 1875. In that session of 1875 the following resolution was moved . . . and finally adopted by the House. . . . "As it appears from the despatch dated 22nd October, 1875, that the Right Hon. the Secretary of State for the Colonies has withdrawn his proposal for a conference of representatives of the several colonies and states of South Africa, this House is of opinion that it is not now called upon to record its continued objection to the holding at the present time of such a conference or its condemnation of the unconstitutional agitation carried on in this colony in connexion with this question. . . ."

. . . Notwithstanding the resolutions which had been arrived at by the House in the close of the year 1875, the agitation continued. The question was again brought forward in the session of 1876. . . . The majority of the House declined to delegate authority to Mr. Molteno (who was then about to proceed to London) to discuss with the Secretary of State the Native policy, or to arrange with him any basis upon which any conference to be held should discuss the question of confederation. That is entirely the view I took then, and I take the same view now, that these questions should be discussed in the colony; that they should proceed as far as possible from the people of this colony, and that all the discussions to be raised upon them, and the final decision to be arrived at, should rest with the representatives of the people in this House. Sir, that is the conclusion I think of the history of union or confederation in South Africa, so far as regards the direct action of the Legislature, but it is by no means

the conclusion, so far as regards Her Majesty's Ministers in England or the Colonial Government, for on the 22nd of January, 1877, the Colonial Ministers penned a minute on a despatch from the Secretary of State covering the Permissive Bill, that is the Bill now known as the South Africa Act, which was then proposed to be introduced into the Imperial Legislature. That minute, however, I may say, dealt simply with the question of Griqualand West, and I will not trouble the House with any further reference to it, but will direct the attention to the minute of Ministers of March the 15th, 1877, which enters very fully into the question of the Draft Bill and of confederation or union generally. . . . It deals very widely, indeed, with this question of confederation or union; and the 3rd and 4th paragraphs of that minute upon the Draft Bill which ultimately became the South African Act, are as follows: "3. Ministers are not insensible of the advantage which is afforded in the consideration of a subject of such magnitude as the union of the several communities of South Africa by the submission of definite suggestions." "4. Accepting as a conclusion, from which few will be found to dissent, that such a union is eminently desirable, the following remarks will be more particularly directed towards those points which, in the opinion of Ministers, seem to call for notice, owing in a great measure to local circumstances." What I wish the House to take notice of in that paragraph is this: that it was laid down by the Colonial Ministers on the 15th March, 1877 . . . that such a union is eminently desirable, and, I think, it may be said that there is a general concurrence of opinion that it is desirable. . . .

Paragraph 5 went on to discuss the South Africa Act which, it was considered, entered too much into detail; and I may say that in that I entirely concur. I am one of those who have never been able to see what was

the advantage of passing the South Africa Act in the Imperial Legislature. It went very much into detail, to far too great an extent for persons who were not conversant with the affairs of South Africa; and it was almost certain that many errors would creep into that Act; and, in fact, since the Act was passed by the Imperial Legislature and subjected to searching criticism in this colony, it has been generally admitted to be an Act which could not be applied to the South African colonies in its entirety, and that various amendments will have to be made before it can become a practical measure in operation. . . . I think the better course would have been to have waited till action was taken in this country, whether upon the suggestion of Her Majesty's Government or on the motion of the colonists themselves; and until they [Her Majesty's Government] had received some draft of a Bill or some definite proposals from the colony, which might have guided them in framing a measure to submit to the Imperial Legislature. In the 9th paragraph, ministers go on to say: "The dissimilar condition of the various colonies and states which will, it is hoped, form the South African Union, . . . renders it at present impossible to lay down any exact lines on which the details of such a union could be effected. The union would probably be best arranged between this colony and each of the colonies and states generally." I entirely concur with the first part of that statement, that it is impossible for this colony to lay down any exact lines on which the details of such a union could be established; and it is for that reason that it is proposed by these resolutions to invite representatives or delegates from other colonies to meet us in a conference here, in order that we may together arrange the details of the plan and lay down the lines upon which a union, if it is to take place, shall hereafter be formed. . . .

The Government of this colony feels, what I believe the majority of the House feels, and what I have no doubt that the majority of the country feels, that we are not sufficiently acquainted with the circumstances of the other colonies, that we want more information—and it is for that purpose we suggest a commission of inquiry in order to gain that information upon which practical proposals may ultimately be based for submission to the legislature. In the 19th paragraph Ministers say: "They would submit for the consideration of the Right Hon. the Secretary of State for the Colonies that, in their opinion, the end and object aimed at by Her Majesty's Government, and in which Ministers concur, might be attained in a more simple, and they venture to think, in a most effectual manner, by preserving the Parliament of the Cape of Good Hope, and providing for the representation therein by the state or colony willing to join in the union of members elected by such state or colony; and the said Parliament might, after such union, be called the Union Parliament; the number of members to be returned by such state or colony, and the terms upon which the local government of such state or colony and the larger colony would be carried on respectively to be settled by mutual agreement, and to be ratified by proclamation or order in council as provided in clause 3 of the Permissive Bill."

Now, in that paragraph, as I read it, I entirely concur, and that is exactly what is proposed to be done by the resolutions now submitted to the consideration of the House. This paragraph distinctly points at a federative union, that there shall be a Union Parliament, that is, a Parliament where all great questions affecting the interests of the various colonies shall be discussed, and to which Parliament the various colonies shall send representatives; but it points at something beyond that; it points at the local government of these colonies,

and that is what is strictly understood by confederation of the colonies and states, that there shall be one central—I do not use the word geographically—legislature, together with local legislatures. It is a question that will hereafter have to be discussed, if we go into this conference, what shall be the character of such local governments, and to what extent administrative and legislative powers shall be given to bodies which are established for that purpose in the various colonies. . . .

Paragraph 20 states: "Subject to this general provision they would propose that the whole arrangement of details should be left for settlement by the parties to the proposed union, rather than they should be fixed by the proposed Bill, the provisions of which in this respect, by provoking discussion and criticism, are likely to detract from its utility as a purely Permissive Bill." That is precisely what is proposed by the resolutions now before the House, that the whole arrangement of the details should be left for settlement by the parties to the proposed union. It is for the express purpose of settling these details that we invite the House now to assent to the resolutions proposing a conference of delegates to consider this important question. Paragraph 21 goes on to say: "In placing the foregoing observations before the Right Honourable the Secretary of State for the Colonies, Ministers are aware that his lordship is not insensible to the very grave difficulties which surround the subject, and the many delicate questions involved in the proposed union. They join with him, however, in hoping for an early and favourable solution to those difficulties, and assure him of their desire to assist such solution, and they trust that the result may bring increased prosperity to the various communities of South Africa, and by so doing tend to the general welfare of the British Empire." . . .

Sir, the war broke out on the frontier, and a change of Ministry occurred, and of course during the continuance of that conflagration along the borders of this colony and the neighbouring countries, it was impossible to enter upon the consideration of this important question, but the question was never lost sight of by Her Majesty's Government, by the Colonial Government, or by the public of South Africa. It was referred to in a Despatch from the Secretary of State of the 12th of June, 1879, to which I will now direct the attention of the House, and I do so as showing what is the view of Her Majesty's Government upon this question, because it has been attempted to be shown, lately, that this is a matter in which Her Majesty's Government do not feel much interest, but that the interest is felt by the people of this colony alone. I shall show, however, that the late Government of Her Majesty in England have formed a very strong opinion upon this subject, and that they pressed the matter very much upon the attention of his Excellency the Governor, and I shall be able probably to show, by-and-bye, that the successors of the late administration in England are also living in the full hope and expectation that the proposals that are about to be submitted to the judgment of this House will meet with a favourable reception, and that this confederation or union, in whatever form it may be carried out, will ultimately be established in South Africa. In paragraph 4 of the Despatch of the 12th June, 1879, the Secretary of State says: "I request you, therefore, to consider with your Ministers, at the earliest possible moment, whether general proposals for the establishment of a South African union, or confederation may soon be submitted to the Cape Parliament soon after it has assembled." That was during the session of last year. "The proposals for this object may very properly originate in the Legislature of the principal colony, to

which the privilege of responsible Government has already been conceded. They might assume the form of resolutions affirming the expediency of establishing a union, and suggesting such a definite form of Parliamentary constitution as would in the opinion of the Cape Parliament, secure a fair share of representation to each of the several members who might be admitted into that union." Now, I may say that I do not go along with the latter part of the sentence just read, for the reason already stated. I do not think we are in possession of sufficient information to enable us to lay down any definite proposals, and especially not any details upon which such a union shall be established; but I entirely agree with the former part of the proposal that the subject may very properly originate in the Legislature of the principal colony to which responsible Government has already been conceded; and it is because we are entirely in agreement with the suggestion of the Secretary of State that we now submit the proposals before the House. . . .

Now, sir, of course the House is aware that, owing to the circumstances to which I have already referred, namely, the very disturbed state of South Africa from the wars which have broken out in various parts of the British territory, it was impossible for the present administration to bring this question forward for the consideration of the House before the present time . . . and I shall endeavour to show that now is pre-eminently a most favourable opportunity, and that the circumstances of the surrounding colonies are now such as to justify us, indeed I may say authorise us, in bringing this question to the consideration of the Legislature. I wish first to direct the attention of the House to the minute of the present Administration of the 15th of September, 1879. . . . The minute is as follows: "The apparent cessation of hostilities in Zululand,

consequent upon the capture of Cetywayo, the Zulu King, induces Ministers to turn their serious attention to the question of the confederation of the various South African communities."

I come now to a later despatch from the Secretary of State, upon the same subject, dated the 11th of December, 1879, and in paragraph 4 occurs the following: "I trust that a full consideration of the circumstances now existing may serve to convince your Ministers that they need not any longer hesitate to undertake, on the part of the Cape Government, the functions and responsibilities incidental to that leading position in a South African Union which that Colony, if a member of it, must necessarily occupy. I will not now attempt to discuss in detail the provincial constitutions with which each of the British colonies would enter the union, because there are many minor points on which I should desire first to ascertain the opinions of those who are most directly interested, but I will state in general terms what I conceive would be the outline of a suitable scheme." . . .

The Government itself does not come down to the House and propose any definite scheme of confederation or union of the South African states and colonies. What the Government proposes to the House is that there shall be a conference to ascertain the practicability of such a union, [and] whether it can be effected. . . .

I now come to the minute of the 24th of January, wherein are contained the suggestions with reference to the proposal for a conference of a character now submitted to the judgment of this House. . . . "With this object in view, Ministers respectfully suggest the desirability of a conference being assembled to consider and report upon the practicability of a union of the South African Colonies, and to draft proposals for such union. The detailed composition of the conference is not easily

arranged, but the following is suggested as what might meet the requirements of the case: Cape Colony, 6—His Excellency the Governor; two members of the Cabinet; one member of the Legislative Council; two members of the Legislative Assembly. Natal, 3—The Colonial Secretary; two elected members of the Legislative Council. Transvaal, 3—His Honour the Administrator; two members of the Legislative Council. Griqualand West, 3—His Honour the Administrator; two elected members of the Legislative Council." . . . It is said also in this minute, that these suggestions are tentative in their character, that the Government has little doubt that some amendments would be proposed by the Legislature of the colony when this proposal is made, and amendments may possibly be suggested by Her Majesty's Government . . . [but] what the Government desires to get the assent of the House to is the first of the resolutions: "That in the opinion of this House it is expedient that a conference of representatives be assembled to consider the existing relations of the British colonies in South Africa to each other and to the native territories adjoining, and to ascertain the practicability, or otherwise, of a legislative and administrative union of such colonies."

XXI. Right Hon. Earl of Kimberley, Secretary of State for the Colonies to Sir Hercules Robinson, High Commissioner for South Africa, 30 December, 1880.

[Parl. Pap., C. 2754, pp. 3-4.]

Downing Street,
30 *December*, 1880.

You are aware of the steps which have been taken to promote a confederation or union of the British possessions in South Africa. The Act passed in 1877 to enable the South African Colonies to enter into a con-

federation received very general support in both Houses of Parliament, and the occurrences of subsequent years have increased the conviction that the safety and progress of South Africa can be but imperfectly secured until the control of the more important branches of administration is placed in the hands of one supreme Government, the advantages of which, I need scarcely add, would be sensibly increased if the Orange Free State should be willing to unite with the British Colonies.

The provisions of the "South Africa Act, 1877" which enable the Queen to create a South African Union, cannot be exercised after the first day of August, 1882, and the time is therefore becoming short within which the confederation contemplated by that Act can be established.

The question was discussed at great length in the Cape House of Assembly in June of this year, . . . but the resolutions proposed by the Cape Government for the assembling of a Conference of Representatives of the South African Colonies to consider the practicability of a Legislative and Administrative Union were not carried, the previous question having been agreed to without a division. In these circumstances Her Majesty's Government are of opinion that it is not advisable that you should yourself press your Ministers to take steps to bring the matter again under discussion in the Cape Parliament, and they are disposed to think that for various reasons it will be more convenient that any fresh movement for confederation or union should be initiated spontaneously by the Colonies, from the conviction that their own political and material interests demand it. . . .

I will only further say that any plan of union or confederation which may hereafter be agreed upon by the three Colonies will be considered by Her Majesty's

Government with an earnest desire to be able to give it their sanction. Failing any complete scheme of union it might be possible to bring about at once joint action in regard to customs duties, and such matters as postal and telegraphic communication, and above all to establish a well-considered and efficient system of mutual co-operation for the maintenance of peace and for defence against risings or attacks of Natives, whether within or beyond the frontiers.

XXII. Proposed Programme for the Projected Afrikander Bond, [1881].

[This document is not authoritative. It is here reprinted from Thomas, C. H., "Origin of the Anglo-Boer War Revealed," pp. 64-69, as illustrating a particular point of view.]

The Afrikander Bond has as final object what is summed up in its motto of "Africa voor de Afrikanders." The whole of South Africa belongs by just right to the Afrikander nation. It is the privilege and duty of every Afrikander to contribute all in his power towards the expulsion of the English usurper. The States of South Africa to be federated in one independent Republic.

The Afrikander Bond prepares for this consummation.

Argument in justification:

(*a*) The transfer of the Cape Colony to the British Government took place by circumstances of *force majeure* and without the consent of the Dutch nation, who renounce all claim in favour of the Afrikander or Boer nation.

(*b*) Natal is territory which accrued to a contingent of the Boer nation by purchase from the Zulu king, who received the consideration agreed for.

(*c*) The British authorities expelled the rightful owners from Natal by force of arms without just cause.

The task of the Afrikander Bond consists in:

(*a*) Procuring the staunch adhesion and co-opera-

tion of every Afrikander and other real friend of the cause.

(*b*) To obtain the sympathy, the moral and effective aid of one or more of the world's Powers.

The means to accomplish those tasks are:

Personal persuasion, Press propaganda, legislation and diplomacy. . . .

Upon the basis of our just rights the British Government, if not the entire nation, is the usurping enemy of the Boer nation.

In dealing with an enemy it is justifiable to employ, besides force, also means of a less open character, such as diplomacy and stratagem.

The greatest danger to Afrikanderdom is the English policy of Anglicising the Boer nation—to submerge it by the process of assimilation.

A distinct attitude of holding aloof from English influences is the only remedy against that peril and for thwarting that insidious policy.

It is only such an attitude that will preserve the nation in its simple faith and habits of morality, and provide safety against the dangers of contamination and pernicious examples, with all their fateful consequences to body and soul.

Let the Dutch language have the place of honour in schools and homes.

Let alliances of marriage with the English be stamped as unpatriotic.

Let every Afrikander see that he is at all times well armed with the best possible weapons, and maintains the expert use of the rifle among young and old, so as to be ready when duty calls and the time is ripe for asserting the nation's rights and being rid of English thraldom.

Employ teachers only who are animated with truly patriotic sentiments.

Let it be well understood that English domination

will also bring religious intolerance and servitude, for it is only a very frail link which separates the English State Church from actual Romanism, and its proselytism *en bloc* is only a matter of short time.

Equally repugnant and dangerous is England's policy towards the coloured races, whom she aims, for the sake of industrial profit, at elevating to equal rank with whites, in direct conflict with scriptural authority—a policy which incites coloured people to rivalry with their superiors, and can only end in common disaster.

Whilst remaining absolutely independent, the ties of blood, relationship, and language point to Holland for a domestic base.

As to commerce, Germany, America, and other industrial nations could more than fill the gap left by England, and such connections should be cultivated as a potent means towards obtaining foreign support to our cause and identification with it.

If the mineral wealth of the Transvaal and Orange Free State becomes established—as appears certain from discoveries already made—England will not rest until those are also hers.

The leopard will retain its spots. The independence of both Republics is at stake on that account alone, with the risk that the rightful owners of the land will become the hewers of wood and drawers of water for the usurpers.

There is no alternative hope for the peace and progress of South Africa except by the total excision of the British ulcer.

Reliable signs are not wanting to show that our nation is designed by Providence as the instrument for the recovery of its rights, and for the chastisement of proud, perfidious Albion.

XXIII. Extracts from Speech of Mr. Cecil Rhodes, M.L.A., in Cape House of Assembly on the Basutoland Disannexation Bill, 18 July, 1883.

[Vindex, "Cecil Rhodes, His Political Life and Speeches," pp. 51-53.]

The honourable member for Stellenbosch has objected to the presence of the Imperial Government because it would lead to complications with the Free State, and for that he asks us to risk the chance of anarchy in Basutoland. Is that consideration for the Free State? The people of the Free State are surely the best judges of the question, and they say they want to be protected by the Imperial Government guarding their border. I have seen in certain newspapers statements with regard to Tembuland as to which I should be glad to hear the honourable member for Stellenbosch. It has been said somewhere that they (the trekkers) were perfectly right, and that if they were prevented, what had occurred in the Transvaal might occur again. These things have caused a certain amount of alarm in the country, and I would like to hear the opinion of the honourable member for Stellenbosch in the resolution passed at the Richmond Congress, and would also like to hear some expression as to what he is reported to have said about a United States of South Africa under its own flag. I want to hear the honourable member for Stellenbosch give a reply to these things. I have read the remarks of Mr. Van der Heever at the same congress, and he said that it was a very good thing that the English flag was here. I have, perhaps, misrepresented the honourable member, but I would be glad to hear whether there is anything behind this resolution, and what is the honourable member's policy in this country. I would like to hear whether he is still in favour of a United States of South Africa under its own flag.

I have my own views as to the future of South Africa, and I believe in a United States of South Africa, but as a portion of the British Empire. I believe that confederated states in a colony under responsible government would each be practically an independent republic, but I think we should also have all the privileges of the tie with the Empire. Possibly there is not a very great divergence between myself and the honourable member for Stellenbosch, excepting always the question of the flag; though I have read in some paper that the honourable member for the Paarl (Mr. Marais) objected to the whole resolution passed as having a disloyal tendency.

We are now at the junction of two paths—one path leads to peace and prosperity in this country, by the removal of native difficulties, leaving us free for the development of the country; the other path leads to ruin and disaster.

XXIV. Extracts from Speech of Mr. Cecil Rhodes, M.L.A., in Cape House of Assembly in Debate concerning the Control of Basutoland and Stellaland, 16 August, 1883.

[Vindex, "Cecil Rhodes, His Political Life and Speeches," pp. 62-66.]

In moving this amendment, I do so as an addition rather than an amendment to the Government's proposal. I feel that the House has not yet risen to the supreme importance of this question, which is far more important than the disposal of Basutoland or the Transkei. You are dealing with a question upon the proper treatment of which depends the whole future of this Colony. I look upon this Bechuanaland territory as the Suez Canal of the trade of this country, the key of its road to the interior. The House will have to wake up to what is to be its future policy. The question before us really is this, whether this colony is to be confined to its

present borders, or whether it is to become the dominant state in South Africa—whether, in fact, it is to spread its civilisation over the interior. . . .

Now as to this question of the seventy farms. One solution is a cession by Mankoroane [a Stellaland chief]. But Mankoroane says, "I will not take money for the territory. If you will take the whole of my territory, do so; otherwise I want my territory back again." Now, ought we wrongfully to seize the territory, or ought we not to accept the only fair solution, the offer of this native chief? I am no negrophilist, and I hold to the distinct view that we must extend our civilisation beyond our present borders.

We come now to the second factor in the question, which is Stellaland. The Republic of Stellaland also has offered us their territory. Some honourable members may say that this is immorality—to deal with these men at all after what has occurred. "The lands," they may say, "belong to the chief Mankoroane. How improper! How immoral! We must not do it." Now I have not these scruples. I believe that the natives are bound gradually to come under the control of the Europeans. I feel that it is the duty of this colony when, as it were, her younger and more fiery sons go out and take land, to follow in their steps with civilised government. Is not this also the principle of the British Government? . . . The people of Stellaland have offered to come under our rule. . . .

They pointed out that they wished to do one of two things—either to be annexed to the Transvaal or to the Cape Colony. Mr. Niekerk said that he himself was inclined to the Transvaal, being an old subject of that state, but said he had not any very strong views. He only wanted the Cape Colony and the Transvaal to settle the question. Now I would point out to the honourable member for Cradock, and the honourable member for

Stellenbosch, that we must deal with this question, if only for one thing. We know that all sorts of "fuel" are said to be in the country, and Imperial interference in Bechuanaland would be one source of fuel. If we do not settle this ourselves, we shall see it taken up in the House of Commons, on one side or the other, not from any real interest in the question, but simply because of its consequences to those occupying the Ministerial benches. We want to get rid of the Imperial factor in this question, and to deal with it ourselves, jointly with the Transvaal. The House may ask, What does the Transvaal think of this question? Well, we can only judge of the views of the Transvaal by the written minutes on the subject by the President and his Executive. [Mr. Rhodes here quoted from the official documents to show that they supported his view.] Of course we must not disregard any legitimate interests of the Transvaal; but we are bound to think first of the interests of this Colony.

XXV. Order in Council providing for the Government of Basutoland.

[House of Commons Papers (1905), 130, pp. 5-6.]

At the Court at Osborne House,
Isle of Wight.
The 2nd day of February, 1884.
Present:
The Queen's Most Excellent Majesty
Lord President
Secretary Sir William Vernon Harcourt
Mr. Gladstone.

Whereas certain territory in South Africa, inhabited by the tribe of people called Basutos, and known as Basutoland, did in the year 1868 become part of Her Majesty's Dominions, and under the direct authority

of Her Majesty, exercised through Her High Commissioner:

And whereas Her Majesty, by Order in Council, dated the 3rd day of November, 1871, was pleased to declare her special confirmation of an Act passed by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, entitled "An Act for the annexation to the Colony of the Cape of Good Hope of the territory inhabited by the tribe of people called Basutos:"

And whereas the said Legislative Council and House of Assembly have passed a Bill repealing the said Act, and entitled "An Act to provide for the Disannexation of Basutoland from the Colony of the Cape of Good Hope,"[1] and the said Bill has been duly reserved for the signification of Her Majesty's pleasure thereon:

And whereas it is provided by the law of the Colony that no Bill so reserved shall have any force or authority within the Colony until the Governor shall signify by speech or message to the said Council and Assembly, or by proclamation, that such Bill has been laid before Her Majesty in Council, and that Her Majesty has been pleased to assent to the same:

And whereas it is expedient that Her Majesty in Council should assent to the said Bill, and that provision be made for the future administration of Basutoland:

Now therefore, Her Majesty is pleased, by and with the advice of Her Privy Council, to declare Her assent to the said Bill.

Part II.

Her Majesty is further pleased to order, and it is hereby ordered as follows:—

So soon as Part II. of this Order takes effect, Basuto-

[1] Act No. 34 of 1883, "Statutes of Cape of Good Hope," ii., p. 2157.

land shall again come under the direct authority of Her Majesty, and the person for the time being exercising the functions of Her Majesty's High Commissioner for South Africa (hereinafter styled the High Commissioner) shall have and may exercise, in the name and on behalf of Her Majesty, all legislative and executive authority in and over the territory of Basutoland.

The High Commissioner is hereby empowered and required, in the name and on behalf of Her Majesty, to make by proclamation such laws as may to him appear necessary for the peace, order, and good government of the said territory, and to appoint such Resident or Deputy or Assistant Commissioners, Officers, and Magistrates, and generally to take such measure, and to do all such matters and things as he may think expedient for the like peace, order, and good government.

All laws in force in Basutoland at the time when this Order takes effect shall continue in operation until repealed or altered by proclamation of the High Commissioner, and all powers and authorities which by such laws are vested in the Governor and Officers appointed by him shall be vested in and exercisable by the High Commissioner and officers appointed by him.

The Governor of the Colony of the Cape of Good Hope shall cause this order to be proclaimed at such place or places as he shall think fit, and upon such proclamation Part II. of this Order shall take effect and come into operation.

And the Right Honourable the Earl of Derby, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. Peel.

XXVI. Programme of the Principles of the Afrikander National Party, 1884.

[Iwan Muller, E. B., "Lord Milner and South Africa," pp. 289-291.]

1. The Afrikander National Party acknowledges the guidance of Providence, also in the destiny of countries and nations.

2. Its aim is to form, under the guidance of Providence, a pure nationality, and to prepare our countrymen to establish a "United South Africa."

3. To gain this object, it considers it necessary (*a*) to acquire a firm union of the different European nationalities in South Africa, and (*b*) to promote the self-dependence of South Africa.

4. It considers that the union referred to in Clause 3 (*a*) should rest on a clear and plain conception of each other's common interests in politics, agriculture, stockbreeding, commerce, and industry, and on the acknowledgment of each other's peculiar rights regarding religion, education, and language, so that all jealousy between the different national elements of our countrymen be removed, and place be made for a palpable South African feeling.

5. To promote the independence, Clause 3 (*b*), it expects (*a*) that the feeling of national self-respect and of patriotism towards South Africa shall be developed and cherished in schools, families, and by medium of the Press; (*b*) that an election system be applied, by which not only the rights of number, but also of property and intellect, be acknowledged, and to guard as much as possible against bribery and coercion at elections; (*c*) that our agriculture, stock-breeding, commerce, and trade be supported by all lawful means . . . ; (*d*) that the South African Colonies and States regulate their native questions themselves either separately or by mutual agreement, thereby developing the

active forces of the country by means of efficient civil laws; and (*e*) that foreign intervention with the local concerns in South Africa be guarded against.

6. While acknowledging the Governments existing in South Africa, and intending to fulfil its obligations towards them faithfully, it considers that it is likewise the duty of those Governments to promote the interests of South Africa in accordance with the foregoing clauses, and while it guards on the one hand against unnecessary or rash interferences with the domestic and private affairs of the burgher, against all direct interference with the religious development of the nation, and against enactments which might impede the unfettered influence of the Gospel on our countrymen, and on the other hand to discharge all the direct duties of a good Government, under which may be classed:

(*a*), (*b*) and (*c*) [Administration is to be according to Christian principles, the individual is to have freedom of religion, and the necessary arrangements are to be made for the proper keeping of Sunday];

(*d*) the application of an equal judicious tax system;

(*e*) to bring into operation an impartial and as much as practicable an inexpensive efficient administration of justice;

(*f*) [to guard the public honour and the general health.]

7. To enable these principles to gain a footing, the Afrikander National Party comes forward as a self-dependent party, and enters into co-operation with other parties only when it can do so without the violation of its principles.

GENERAL CONSTITUTION OF THE BOND.

Art. 1. The Afrikander Bond establishes itself in the various States and colonies in South Africa.

Art. 2. The chief object of the Bond is the forming of a South African nationality by union and co-operation, as a means to the object in view—a united South Africa. This object the Bond endeavours to gain by constitutional means, giving all support to the respective Governments and Legislations, and respecting the rights of each.

Art. 3. Anyone may become a member who in a proper way and by signing the following schedule declares that he will maintain the declared principles and observe the duties of the same.

[Here follows the schedule.]

XXVII. Resolutions of a Native Meeting concerning South African Policy, 22 April, 1885.

Transmitted by Sir Hercules Robinson to the Earl of Derby, Secretary of State for the Colonies, 6 May, 1885.

[Parl. Pap., C. 4588, p. 3.]

Resolutions Passed in King William's Town.

"Native Opinion" Office,
King William's Town,
22 *April*, 1885.

To His Excellency the Right Hon. Sir Hercules Robinson, etc.

May it please your Excellency,

According to a resolution passed at a large and representative meeting of the natives of this division held at Debe, near Fort White, on the 14th instant, I have the honour to forward the following resolutions passed with great enthusiasm thereat. . . .

III. This meeting expresses its strong opinion in favour of the Imperial Government taking over and administering as a Crown Colony all the native territories beyond the Cape Colony, as the anomaly of their administration by a Government responsible to a Parliament in which they have no representatives is productive

of mischief, and the Colony is, moreover, at present unable to protect them from possible filibustering expeditions.

IV. This meeting having in view the fluctuations of native policies to which natives have been victims ever since the introduction of responsible government, would rejoice if the Colony of the Cape of Good Hope would revert to the form of government which previously existed, and would respectfully urge the Imperial Government to consider this matter. . . .

I have, etc.,

(Signed) J. Tengo Jabavu.

XXVIII. Extracts from Speech of Mr. Cecil Rhodes, M.L.A., in Cape House of Assembly on Customs and Railway Union, 20 May, 1886.

[Vindex, "Cecil Rhodes, His Political Life and Speeches," pp. 132-137.]

I will put the case before the House from two points of view—the sentimental and the commercial. The sentiment of the House is distinctly that the tendency of the action of the House should be to draw us closer together with the Transvaal and the Free State. But what is staring the House in the face at the present moment is, that unless action is taken at once, the Delagoa Bay Railroad will be carried out. That means that if the Delagoa Bay Railway is carried out we shall not get a continuation of the line from Kimberley to Pretoria. Commercial people will always be inspiring or instilling into the rulers of the Transvaal hostile action against the Cape Colony. In other words, if the Delagoa Bay Railway is carried out, the real union of South Africa will be indefinitely deferred.

The point to consider is whether we should not act at once so as to connect our railway from Kimberley

with Pretoria. If that is not done this session it will be too late; the interests of the Transvaal will be turned towards Delagoa Bay, and their commerce will go with their interests. From being connected in commerce union will come, and that is the only way in which it can come. I will also point out that if action is not taken, that railway will be made during the ensuing year; but if the House will but rise to the situation and act firmly, I believe that arrangements could be made for the extension of the railway from Kimberley, and that would at any rate unite us with Pretoria, and, as I firmly believe, would stop the Delagoa Bay Railway.

We should in the present circumstances save money if the Government of the Transvaal were willing to continue the line to Pretoria. That which is so earnestly desired by all—the union of the country—would, I believe, be seriously injured if we allow that railway from Delagoa Bay to develop. We shall be cut off from the Transvaal as far as our trade is concerned. Commerce should come first, and union will follow by having our interests in common. That is the point for the House to consider. My hon. friend the member for Kimberley has read an extract from a newspaper cutting containing the report of an interview with General Joubert. What is the tenor of it? Evidently he is annoyed with the Cape Government; he has not been received as he should have been, and he is turning his views to Delagoa Bay. If we take a statesmanlike view of the situation, we should deal with them in the first place about the internal customs, and then about the extension of the railway to Pretoria. The member for Kimberley has pointed out that his objection to deal with the Transvaal in any way is that our natives in returning from Kimberley are made to pay duties on the goods they take with them. He wants to know the reason

why the Transvaal deals with us in the way they have dealt. It is not that they have hostile feelings towards us, but that they want money. They are "hard up," and as they have no Customs duties they say they must get their revenue some way, and the only way is to put a duty on goods from Cape Town and the Colony going through the Transvaal. The real duty is thirty-three per cent. added to the invoice, and then five per cent. on that; but the duty is not imposed out of hostility towards us, but because they must obtain a revenue somehow. I would like to draw attention to the premises laid down in the Attorney-General's speech in relation to this matter. The first is that we cannot give up our Customs duties; and the second is that we might approach them in so far as the question of internal duties is concerned; but he points out very considerable objections to our yielding or giving way on that point. Well, if we are going to approach the Transvaal and the Free State first by laying down the law that we will not give away any of our Customs duties, and yet are almost willing to allow discussion as to our internal duties, we shall only increase the feeling existing at present.

It is time to approach the question from a much wider point of view. We must do away with the internal duties, and if we are going to improve the feeling that exists we must deal with them on the basis of giving them some share of the Customs. It might seem as though I were asking the House to give up some revenue, but I would point out that if the Delagoa Bay Railway is going to develop—and I believe it is—that trade is bound to go either from Delagoa Bay or from Natal. Because if we do not make a Customs union with the Transvaal, the people of Natal are quite sharp enough to see that they must do something. Before we know what we are about we shall

hear of a Customs union between Natal, the Orange Free State, Delagoa Bay, and Bechuanaland, and then what shall we do? We shall have to come down, and beg them to take us into the union; but then they will say that it is too late, and that they have agreed as to terms, and can do nothing with us. When that comes to pass, I ask what will be the use of our railways? It is time that the House should consider the question, whether it would not be possible for the Free State and the Transvaal to allow our goods to go through in bond, and collect at the different termini of our railways the duties for the Transvaal and the Free State on the goods passing through them; and in return for that we might ask them to impose, as against Delagoa Bay and the Natal border, duties of an equivalent amount, which if Natal had also joined the union, they might also collect for the Transvaal. I would point out that we might charge for that collection—our duties are now nearly twenty per cent., and we might charge for the cost of collection—(Mr. Merriman, Twenty-four per cent.)—twenty-four per cent., my hon. friend says; and we should see that our duties are not hostile duties. That is a question we must deal with; and I wish the House to observe, that if we do not do something of the kind, we shall get no Customs duties at all, we shall lose our trade, and we shall lose the takings of our railways.

Now is the time to act. We know that the feeling of the Transvaal towards us is that they would like to do something with us; and we know the sentiment of their rulers is that they would like to do something with us, and not to go to Delagoa Bay; and if we do not act, and act at once, they will make arrangements with Delagoa Bay; a treaty will be made with the Portuguese Government, and we shall find that we are too late in the field. We shall wake up and find our trade gone, hostile tariffs established against us, and the reason for which

our railways were built, namely, the development of the interior, swept away and destroyed.

I think the House should weigh the question seriously, and meet it, not in a petty spirit, but in a broad spirit, and with the idea always before us that we should be the dominant State of South Africa, and should carry out the union of the South African States. If that were done, the authorities at Pretoria would co-operate with us rather than turn their views towards Delagoa Bay.

XXIX. (*a*) Memorandum of the Rev. John Mackenzie concerning the Separation of the Offices of High Commissioner and Governor of Cape Colony.

Forwarded to the Colonial Office, 9 June, 1886.

[Parl. Pap., C. 4839, pp. 100-105.]

[The movement had its origin in the resolution passed on 16 September, 1885, at a meeting of Cape merchants and others in London urging that Sir Charles Warren should be retained as Imperial Commissioner over all native territories outside the limits of Cape Colony and Natal. [C. 4643, p. 54.] Sir Hercules Robinson, in a letter to the Secretary of State, Lord Stanley, bearing date 14 October, 1885, opposed the idea of any change, [C. 4643, pp. 195-197] and the Reverend John Mackenzie replied in the following letter.

The correspondence contained in the Blue Books quoted above, is continued in Parl. Pap., C. 5488, which is wholly devoted to the subject.]

Memorandum prepared by the Rev. John Mackenzie and forwarded to the Colonial Office, [9 *June*, 1886].

It will be remembered that it was proposed, and very generally approved, and is indeed the general view in this country at the present time, that Her Majesty's Government should separate the High Commissionership from the Governorship of the Cape Colony, that the High Commissioner should be the supreme officer of

the Crown in South Africa; that the Governor of the Cape Colony should be an officer exercising that office only; that all affairs which at present come rightly before the High Commissioner, or the Special Commissioner for Zululand, should come before the new High Commissioner (Governor-General in embryo); and that the important business of which there is a good deal every year between the Free State and the Transvaal and Her Majesty's Government, and which at present is carried on by correspondence, sometimes with the High Commissioner at Cape Town and sometimes with the Governor of Natal as Special Commissioner for Zululand, should be transacted with the new High Commissioner.

The beneficial results of this suggested change are obvious enough. Briefly stated they would be the centralization of all Imperial or general Government business, which would be most advantageous to all concerned; the development, through exercise, of this healthy central influence, and the elevation of the Representative of the Queen from being the servant of a section to be the servant of all South Africa.

To the Cape Colony the advantage from the suggested change is clearly to be seen. For the first time in its history its responsible government would have a fair chance, and be directed without distraction or difficulty, to the management of its own affairs as a great Colony, and to the intelligent development of its own vast resources; while business having reference to the Colony's share in the general growth and welfare of the country, would certainly lose nothing by the change, but rather gain by it. Indeed there are certain important South African questions which will be satisfactorily settled only when a South African High Commissioner has been appointed.

The change would at once be advantageous to Natal.

It is quite true that Zululand and Swaziland are, as Sir Hercules Robinson points out, contiguous to Natal. But whether speedy annexation of these territories to Natal, where the native population is already so preponderating, would be an advantage, either to the small community of colonists or to the natives themselves, is open to question. But in either case, subordination to a Governor-General, and closer connection through him with the rest of South Africa, would be a clear advantage to Natal, a Colony which has suffered more from its practical isolation from the rest of South Africa than from any other cause.

The advantage of the proposed change to the Free State and the Transvaal would be very great. A growing, but not forced, connection with England, would give confidence to those who are at present reluctant to spend money on any matter connected with these countries. The fact that unoccupied native territory was in our hands, would kill the freebooting spirit. It would have no field of exercise. At present these States are too small and isolated to make marked progress, although the Free State has done very well up to a certain point. To these States union with the Cape Colony would be less advantageous than Confederation round the Imperial Government as represented by the Governor-General.

[The natives would benefit by the control of an officer uninfluenced by changing Colonial policies, and, our object once understood, native chiefs would tend to accept the Imperial Government.]

Then I have confidence in expressing the opinion that a few years' practice of a separate High Commissionership would assuredly bring about a natural, helpful and safe South African Confederation, of which Her Majesty's Representative would be the centre and head, impartial and trusted, because without local bias or

leaning to one locality or the other. To say that in the present union of offices, the High Commissioner would have no local obligation or bias, and that you will get the public generally of South Africa to think so, is a statement quite incompatible with our knowledge of human nature.

It is well known that other ways have been tried by which to accomplish this desirable end. Mr. Froude's visits, and Sir Bartle Frere's efforts are fresh in the mind. The time for conferences such as were then sought for, would come afterwards. The first thing is for Her Majesty's Government to shape its course aright towards the desired end, by the appointment of a general head. There is no offence to any local government in such an arrangement of affairs as that proposed. Let the new High Commissioner enter quietly upon the duties of the High Commissionership as they are now: and it needs no prophet to predict that a conference would soon be proposed, over which he would advantageously preside.

The present seems an opportune time to consider this question, when it is understood Sir Hercules Robinson's term of office will soon expire. But it is also of importance for Her Majesty's Government to move in this matter as soon as possible, for another and sinister movement is on foot. The alternative course is the union of the Transvaal, Free State and Cape Colony, whether under a Republican President or under an English "Protectorate," would seem to be still an open question among the section working for this union. Now the desire for union is a good thing in itself. But everything depends on its terms, and how it is brought about. A union, such as the Afrikander Bond people are working for, would be a calamity to South Africa. The maxims of anti-progressive people would be supreme everywhere; and they would have constitutional

authority to do what they liked, if once joined to a Colony having responsible government. The name of the Queen would undoubtedly be connected with laws and customs which would offend against the principles of right and justice. The influence of Englishmen, and educated Dutch-speaking men, would be quite done to death under the superincumbent heavy mass of the uneducated and prejudiced majority. English influence in Natal has its own local disproportion and isolation, and could not be put in the balance. The obvious object for Her Majesty's Government to accomplish is to gratify the feeling for union, which really exists, in another and more beneficial way. *The real living question in South Africa to-day is:* Around what are South Africans to unite? One side has spoken and says: Around Afrikanderism, and by corporate union. Her Majesty's Government hitherto have no proposals whatever. In the communication referred to, the High Commissioner does not face this matter at all, and yet it cannot be ignored or avoided. The people in this country and in South Africa, whose views I am now expressing, would say, Unite round the High Commissioner or Governor-General representing the Imperial Government and not by unification but by confederation.

[The remainder of the memorandum is for the most part, devoted to proving by examples that the High Commissioner has not, in fact, been a free exponent of Imperial policy in the past, as Sir Hercules Robinson declared him to be, e.g. Sir Bartle Frere's failure to influence the policy of his Ministers on the question of annexing Basutoland.]

(*b*) Sir Hercules Robinson, High Commissioner in South Africa to the Right Hon. Lord Knutsford, Secretary of State for the Colonies, concerning the proposed Separation of Offices, 11 June, 1888.

[Parl. Pap., C. 5488, pp. 16-19.]

[In the opening paragraphs Sir Hercules Robinson outlines the conditions existing in the various political divisions of South Africa.]

In considering in connection with [the existing conditions] Mr. Mackenzie's recommendation that the Governors of the Cape and Natal should be relieved of all the duties now devolving on them, other than those connected with the Government of the two Colonies, and that the duties so withdrawn from them should be entrusted to an Imperial High Commissioner, "a Governor-General in embryo," the following practical questions arise which it would be well to weigh carefully before deciding on such a change:

(1) Where is such an officer to reside?
(2) What is he to do?
(3) What expense would he entail on the British taxpayers? and
(4) What would be the gain in return for such expenditure?

As to the first point respecting the place of residence, it is clear the new separate High Commissioner could not live in either of the Dutch Republics, or in Portuguese or German territory; and he must, therefore, reside either in a British Colony, or in a British Protectorate. If in the latter he would be isolated and inaccessible. If in the Cape Colony or Natal (say for example in the suburbs of Cape Town, Grahamstown, or Durban) he would in either of those colonies occupy an inferior position to the Governor, whilst in the Cape Colony the puisne judges of the Supreme Court would

by law take rank before him. He would in short whilst living in any British Colony have no official connection with it, or any authority whatever within its borders. It must be obvious that an officer so placed would not have the opportunities and advantages possessed by a Governor for maintaining harmony of action between the Imperial and Colonial Governments, and for securing the co-operation of the latter in matters of common concern.

As to the second question, namely, what would be the precise duties of the new High Commissioner, I will first point out some of the extra-colonial duties now devolving on the Governors of the Cape and Natal which, in my opinion, could not be transferred to the proposed new officer. [As illustrations he mentions Pondoland, the expenses of which have hitherto been borne by the Cape which could therefore claim compensation, Zululand and British Bechuanaland.]

As regards the transaction of business with the Orange Free State and the South African Republic, Natal has lately claimed the right, and been accorded permission, to communicate direct with those Republics on all matters connected solely with its own interests. If a High Commissioner were appointed who was not the Governor of the Cape, that Colony would unquestionably decline to communicate with the Republics through him, and would follow the same course as Natal, appointing probably, in addition, resident agents to represent it. The communications of the new High Commissioner with the Republics would thus be limited to correspondence upon purely Imperial questions, and such other matters as might arise unconnected with any British Colony.

What then would remain besides this for a new High Commissioner to do? He might, it is true, exercise a general supervision over Basutoland, Swaziland, the

Bechuanaland Protectorate and the sphere of British influence beyond it, in all of which, except Swaziland, the High Commissioner has deputies or assistants. I am aware of no other duties which could be imposed on him, and in respect to these I do not see that he would in any respect be in a better or more independent position for discharging them than the Governor and High Commissioner upon whom they now devolve. The assumption that the High Commissioner is unduly influenced by the Governor's Ministers is a complete delusion. As I have stated in one of my previous despatches on this subject, in matters wherein the co-operation, or financial assistance of Ministers is not sought for, they have no more knowledge of the High Commissioner's work, or control over it, than they have of the affairs of Natal or Mauritius.

[The considerable outlay incurred would have to be borne by the British taxpayer who would also be liable to charges resulting from expeditions "which the establishment of the 'Imperial factor' in the interior of South Africa in such a needlessly aggressive form might render necessary."]

And this brings me to the fourth and last question, what would be the gain to the British taxpayers in return for such expenditure? I confess I can see none. I think it would be productive of nothing but loss and trouble. Imperial and Colonial interests in South Africa are not opposed. The dual duties of the Governor and High Commissioner dovetail, as it were, into each other, and their being centred in one officer tends therefore to their efficient and harmonious discharge. The appointment of two officers is unnecessary, and would only result in cross purposes and friction.

I have been nearly eight years in South Africa. I am acquainted with the practical working of the existing administrative system, and with the varied

conditions with which it has to deal. I have also no personal interest in the question, my term of office having long since expired. The conclusion at which I have arrived is that the present plan by which the duties of the High Commissioner and Special Commissioner are entrusted to the Governors of the Cape and Natal, is, apart altogether from its economy, the very best that can possibly be devised for effecting the object desired. What is that object? To reconcile as far as possible South African interests and opinions with Imperial obligations of honour and duty. Has the existing arrangement failed in securing this result? The Governments, Legislatures, and people generally of South Africa seem at all events satisfied with it, whilst the Imperial Government, as far as I am aware, have had no reason to complain of inability on the part of its representatives to give effect to Imperial wishes and policy. There is peace and rest now throughout the length and breadth of the country, and contentment prevails on all sides with existing arrangements. Why not then leave well alone? Why risk a change which, in the judgment of the majority, would be disastrous?

I believe that nearly every thoughtful person in this country who has reflected on this subject has been led to the conclusion which I have formed, that the scheme advocated by Mr. Mackenzie would, if adopted, entail a large expenditure upon the British taxpayers for an arrangement which would not be calculated to advance either Imperial or Native interests. It would be distasteful to the Governments, and the intelligent part of the populations, not only of the British Colonies, but also of the Dutch Republics, and it would, if adopted, in all probability produce an antagonism between the Imperial and Colonial Governments which would strain, if it did not sever, the Imperial tie. I can conceive no

step more calculated to promote the growth of republicanism throughout South Africa.

[The controversy dragged on until 1888 and was closed in July of that year when the Cape Parliament unanimously resolved "that the separation of the Office of Governor of the Cape and High Commissioner would be fraught with danger to the future peace and welfare of South Africa."]

XXX. Extracts from Report of a Select Committee of the Legislative Council of Natal concerning the Political Constitution of the Colony, 28 October, 1888.

[Parl. Pap., C. 6487, pp. 2-13.]

[Forwarded to Lord Knutsford, Secretary of State for the Colonies, with a covering letter from Governor Sir A. E. Havelock, dated 28 October, 1888.]

[In its opening paragraphs the Report proposes to deal with past efforts to obtain the grant of "Responsible Government" from the Imperial Government, beginning with the Committee of 1879 which reported in favour of its being granted along with the control of native affairs and drafted a petition to the Queen.]

This petition was adversely reported upon by his Excellency Sir Garnet J. Wolseley, who at that time held the position of Governor and High Commissioner of South-east Africa. Her Majesty's Secretary of State for the Colonies, Lord Kimberley, endorsed Sir Garnet Wolseley's objections, and stated that in the opinion of Her Majesty's Government the "present circumstances of Natal rendered it advisable that the establishment of the system of Responsible Government should be postponed until the Colony is included in a general South African confederation."

The reasons assigned by Lord Kimberley for this decision were thus summed up in the report of the Committee which was appointed in the Session of 1881,

to report upon his Lordship's despatch, dated the 15th March of the same year :—

"That were Responsible Government granted to Natal the Colony would be liable for its own defence from internal disturbances as well as from outside aggression;

"That the Colony is unequal to meet this liability from its own resources;

"That the Home Government cannot hold itself responsible for the consequences of a policy over which it has no control;

"That therefore Natal must gain strength by confederating with its neighbours before the boon of Responsible Government can be granted to it."

The Committee, in reply, submitted "that the question of confederation is not now before the Colony in any practical shape," and it added—

"Your Committee, moreover, are of opinion that confederation (if ever accomplished) is more likely to come to a successful issue in case greater political liberty is granted to Natal than if the Colony remains under its present constitution. . . ."

[The Committee then in the main body of its report dealt with the objections to the grant of Responsible Government under four heads, viz. :—

I. Defence.

II. Native Policy.

III. Zululand.

IV. Want of men to form Parties.] . . .

Having thus considered the objections which are advanced against any proposal for constitutional reform, your Committee desire to call attention to one aspect of the question which seems to them of supreme significance at the present juncture. The Council has on more than one occasion in times past pointed out the disabilities under which the Colony labours in not standing politi-

cally on a footing of equality with its neighbours. That the interests of Natal have suffered, and suffered grievously, from the fact that the Government of the country has not enjoyed equal freedom and capacity of action in dealing with its neighbours, need not be demonstrated. The policy often participated in by the Local Government, which has been carried out beyond our several frontiers, has not been the policy of the people of this Colony, and in several cases has been directly opposed to their wishes. The time is at hand when questions will arise, indeed they have arisen, between Natal and its neighbours in the settlement of which it is imperative that the voice and interests of this Colony should be adequately represented. That is not possible so long as the executive of the Colony remains in direct subordination, and only accountable, to the home Government. It is therefore a question which the Colony has to consider, whether it can afford any longer to allow its most vital interests to be jeopardised by the inability of its representatives to speak with authority and responsibility.

Can it be expected that in any negotiations that may take place between the several Colonies and States of South Africa the claims and interests of this Colony will have proper respect and recognition if they be not enforced by the representatives of a responsible and strictly Local Government?

It seems proper to point out that the chief bar to the union of Natal with its neighbours has been a dread on the part of the Colonists that they would be overborne and outmatched by the preponderance in area and population of those States, and by the freer hand of those self-governed communities. Did the Cape Colony, for instance, consist of three separate territories, each with distinct interests and individuality, and did Natal enjoy with them corresponding powers of self-rule, the

prospects of a South African Union would be much brighter than they appear to be under existing circumstances.

XXXI. Extracts from Speech of Mr. Cecil Rhodes, Premier of Cape Colony, concerning the Union of South Africa, Kimberley, 6 September, 1890.

[Vindex, "Cecil Rhodes, His Political Life and Speeches," pp. 242-244.]

I may tell you that before coming to a decision in regard to occupying the position of Premier, I met the various sections of the House. I hope you will not be alarmed when I say that I asked the members of the Bond party to meet me. I trust you will agree with me that when I was undertaking the responsibility of government, the best thing to be done was to ask them to meet me and ask them plainly to give me their support. I put my views before them, and received from them a promise that they would give me a fair chance in carrying on the administration. I think that if more pains were taken to explain matters to the members of the Bond party, many of the cobwebs would be swept away and a much better understanding would exist between the different parties.

The Government's policy will be a South African policy. What we mean is that we will do all in our power, whilst looking after the interests of the Cape Colony, to draw closer and closer the ties between us and the neighbouring States. In pursuance of this we have arranged to meet in December next in Bloemfontein, and hope to extend the railway from Bloemfontein to the Vaal River. We feel that it is a matter of time to arrive at a settlement of the various questions which divide the States of South Africa. It may not come in

our time, but I believe that ultimately the different States will be united. The Government hope that the result of the Swaziland Convention will prove satisfactory to the Transvaal. We feel that if fair privileges were granted to every citizen of the Transvaal, the Transvaal would not be dissatisfied at the terms England will deal out to it. I feel sure that if the Transvaal joins with us and the other States in a Customs Union, the sister colony of Natal will also join, and that would be one great step towards a union of South Africa. The projected extension of the railway will likewise prove that we are getting nearer to a United South Africa.

It is customary to speak of a United South Africa as possible within the near future. If we mean a complete Union with the same flag, I see very serious difficulties. I know myself that I am not prepared at any time to forfeit my flag. I repeat, I am not prepared at any time to forfeit my flag. I remember a good story about the editor of a leading journal in this country. He was asked to allow a supervision of his articles in reference to native policy, and he was offered a free hand with everything else. "Well," he asked, "if you take away the direction of my native policy, what have I left?" And so it is with me. If I have to forfeit my flag, what have I left? If you take away my flag, you take away everything. Holding these views, I can feel some respect for the neighbouring States, where men have been born under Republican institutions and with Republican feelings. When I speak of South African Union, I mean that we may attain to perfect free trade as to our own commodities, perfect and complete internal railway communication, and a general Customs Union, stretching from Delagoa Bay to Walfisch Bay; and if our statesmen should attain to that, I say they will have done a good work. . . .

XXXII. Extracts from Speech of Mr. Cecil Rhodes at the Annual Congress of the Afrikander Bond, Kimberley, 30 March, 1891.

[Vindex, "Cecil Rhodes, His Political Life and Speeches," pp. 265-277.]

I come here because I wish to show that there is nothing antagonistic between the aspirations of the people of this country and of their kindred in the mother country, provided always that . . . the old country recognises that the whole idea of the Colonies and of the Colonial people is that the principle of self-government must be observed and acted upon to the full, and that the capacity of the Colony must be admitted to deal with every internal matter that may arise in the country. The principle must be recognised in the old country that the people born and bred in this Colony, and descended from those who existed in this country many generations ago, are much better capable of dealing with the various matters that arise than people who have to dictate 7000 miles away. Now that is the principle of the Afrikander Bond. There may be some of you who think that the relations of the Empire must be altered, and that separation must take place in time. That I will not discuss just now; but I have a hope that under the principle of self-government we may long remain a portion of the British Empire, enjoying special advantages under a differential rate. . . .

I look upon your organisation as an expression of the desire of the people in the country to claim their share in the politics of the country, and to express their views upon public questions. Even though you might charge me with repetition, I say again that as Prime Minister of the Colony, I know when I am dealing with your representatives that I am dealing with the representatives of the people. I have to consider what they say to

me in Parliament, and I believe the Government of the present day is just this—that the Ministers whom you happen to select for the moment have to carry out the wishes of the majority of the people. That is what I believe to be the Government of the day. . . .

Now another feature which struck me, another consideration which weighed with me enormously, was that when I read the programme of your institution it seemed to me that there could be no difference between your programme and the programme of any man who had an active ambition to bring about a union of the country. The principles of the Bond, instead of creating a diversity of states or parties, instead of inducing antagonism, have the opposite effect; they aim at working quietly, year after year, to bring South Africa into one system as to its railways, as to its customs and as to its trade in the various products of the country. . . . We won't go into the mistakes of the past, when instead of your young and adventurous men going from Cape Town northwards, and engaging in the work of harmonious development, independent states were created which have led to very great friction, which your organisation has been founded to remove. Still we know these states have been created; they have caused enormous and terrible difficulties in connection with our mutual relations; and I recognise that the Afrikander Bond's policy is to remove these difficulties and obstructions from the way of union. I felt nine years ago, as a young politician, that there was no difference between my ideas and the ideas which your organisation promulgated. I might say there is no difference between the policy of Sir Bartle Frere and the policy of the Afrikander Bond. If that had been stated at the time Sir Bartle Frere was Governor of the Cape Colony, it would almost have been met with laughter; but now you receive the statement with all seriousness, recognising

its truth. People are beginning to see that this is the grand central idea.

Although there may be two ways of working it out, the object is the same; and I would say to-night that the only time I ever differed with the Afrikander Bond was when I saw that you were relying too much upon a sentimental arrangement (I am speaking now with regard to the northern states) rather than upon a practical basis. At one time you were prepared to let the whole of the northern territories go from you, in the hope that they would at some future time be united with you. Well, I have been through the fire in the work of amalgamating the diamond mines; and one powerful rule to follow is that you must never abandon a position. It is perfectly true that the northern states may accept your sentiment as to a union with South Africa; but you must come to a bargain with every card you have in your hand. That is the secret of the Bechuanaland development and the development of Zambesia, now going on. I have not one single atom of antagonistic feeling in so far as the Transvaal or any of the neighbouring states are concerned; but if your ambition or policy is a union of South Africa, then the Cape Colony must keep as many cards as it may possess. That idea led to the settlement of Bechuanaland, and that idea has led to the possession of districts in the Zambesia regions. . . .

I have visited every portion of this country; I have been in Natal, at Witwatersrand, and Bloemfontein; my wealth, my life, my ideas were formed here in Kimberley, but there is no place that can form, train, and cultivate the ideas of the young men of this country, no place better suited to such objects, than the suburbs of Cape Town. As a Cape Colonist, I hope to make Cape Town the centre of South Africa. I ask you again, as representatives of the Afrikander Bond, to assist me

in carrying out that idea. I have stated to you to-night my policy; and I have learned one habit in life, which is, whenever you make a public statement, never to depart from it. You can accept from me to-night what I think now, what I thought nine years ago, and what shall be my thought in the future. . . . I hope your organisation will be with me in the future, for the future depends on that organisation in reference to the question of union. If some of you think that it is only possible that a settlement can be arrived at through the mother country, I would say this in reply to you—Day by day the principle of self-government is growing and developing; and I would say again to you—Self-government is everything that you want.

XXXIII. Order in Council providing for the Government of the Bechuanaland Protectorate, 9 May, 1891.

[House of Commons Papers (1905), 130, pp. 6-8.]

At the Court at Windsor,
The 9th day of May, 1891.
Present:
The Queen's most Excellent Majesty
Lord President
Lord Steward
Earl of Coventry.

Whereas the territories of South Africa situate within the limits of this Order, as hereinafter described, are under the protection of Her Majesty the Queen:

And whereas by treaty, grant, usage, sufferance, and other lawful means Her Majesty has power and jurisdiction in the said territories:

Now therefore Her Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890, or otherwise in Her Majesty vested, is pleased by and with

the advice of Her Privy Council to order, and it is hereby ordered as follows:—

I. The limits of this Order are: the parts of South Africa bounded by British Bechuanaland, the German Protectorate, the Rivers Chobe and Zambesi, the Portuguese Possessions, and the South African Republic.

II. The High Commissioner may on Her Majesty's behalf exercise all powers and jurisdiction which Her Majesty, at any time before or after the date of this Order, had or may have within the limits of this Order, and to that end may take or cause to be taken all such measures, and may do or cause to be done all such matters and things within the limits of this Order as are lawful, and as in the interest of Her Majesty's service he may think expedient, subject to such instructions as he may from time to time receive from Her Majesty or through a Secretary of State.

III. The High Commissioner may appoint so many fit persons as in the interest of Her Majesty's Service he may think necessary to be Deputy Commissioners, or Resident Commissioners, or Assistant Commissioners, or Judges, Magistrates, or other officers, and may define from time to time the districts within which such officers shall respectively discharge their functions. Every such officer may exercise such powers and authorities as the High Commissioner may assign to him, subject nevertheless to such directions and instructions as the High Commissioner may from time to time think fit to give him. The appointment of such officers shall not abridge, alter, or affect the right of the High Commissioner to execute and discharge all the powers and authorities hereby conferred upon him.

The High Commissioner may remove any officer so appointed.

IV. In the exercise of the powers and authorities hereby conferred upon him, the High Commissioner

may, amongst other things, from time to time by Proclamation provide for the administration of justice, the raising of revenue, and generally for the peace, order, and good government of all persons within the limits of this Order, including the prohibition and punishment of acts tending to disturb the public peace.

The High Commissioner in issuing such Proclamations shall respect any native laws or customs by which the civil relations of any native Chiefs, tribes, or populations under Her Majesty's protection are now regulated, except so far as the same may be incompatible with the due exercise of Her Majesty's power and jurisdiction.

V. Every Proclamation of the High Commissioner shall be published in the Gazette, and shall, from and after the expiration of one month from the commencement of such publication, and thereafter until disallowed by Her Majesty or repealed or modified by any subsequent Proclamation, have effect as if contained in this Order.

VI. Her Majesty may disallow any such Proclamation wholly or in part, and may signify such disallowance through a Secretary of State, and upon such disallowance being publicly notified by the High Commissioner in the Gazette the provisions so disallowed shall, one month after such publication, cease to have effect, but without prejudice to anything theretofore lawfully done thereunder.

VII. The Courts of British Bechuanaland shall have in respect of matters occurring within the limits of this Order the same jurisdiction, civil and criminal, original and appellate, as they respectively possess from time to time in respect of matters occurring within British Bechuanaland, and the judgments, decrees, orders, and sentences of any such Court made or given in the exercise of the jurisdiction hereby conferred may be enforced and executed, and appeals therefrom may be had and

prosecuted in the same way as if the judgment, decree, order, or sentence had been made or given under the ordinary jurisdiction of the Court.

But the jurisdiction hereby conferred shall only be exercised by such Courts, and in such manner and to such extent, as the Governor of British Bechuanaland shall by proclamation from time to time direct.

VIII. Subject to any Proclamation made under this Order any jurisdiction exercisable otherwise than under this Order, whether by virtue of any Statute or Order in Council, or of any Treaty, or otherwise, and whether exercisable by Her Majesty, or by any person on Her behalf, or by any Colonial or other Court, or under any Commission, or under any Charter granted by Her Majesty, shall remain in full force.

IX. Judicial notice shall be taken of this Order, and of the commencement thereof, and of any Proclamation made under this Order, and published in the Gazette, and of any Treaties affecting the territories within the limits of this Order, and published in the Gazette, or contained in papers presented to both Houses of Parliament by command of Her Majesty.

X. This Order shall be published in the Gazette, and shall thereupon commence and come into operation; and the High Commissioner shall give directions for the publication of this Order at such places, and in such manner, and for such time or times as he thinks proper for giving due publicity thereto within the limits of this Order.

XI. The Orders in Council of the 27th day of January 1885, for the establishment of Civil and Criminal Jurisdiction in Bechuanaland, and of the 30th day of June 1890, providing for the exercise of Her Majesty's Jurisdiction in certain Territories in South Africa, shall continue in force until the commencement of this Order and be thereupon revoked, but without prejudice to

anything lawfully done thereunder, and any Proclamation theretofore issued under the said Orders shall continue in operation until repealed or altered by any Proclamation of the High Commissioner under this Order.

XII. Her Majesty may from time to time revoke, alter, add to, or amend this Order.

XIII. In this Order, unless the subject or context otherwise requires,—

"Her Majesty" includes Her Majesty's heirs and successors.

"Secretary of State" means one of Her Majesty's Principal Secretaries of State.

"High Commissioner" means Her Majesty's High Commissioner for the time being for South Africa.

"Treaty" includes any existing or future Treaty, Convention, or Agreement between Her Majesty and any civilised Power, or any native tribe, people, Chief, or King, and any Regulation appended to any such Treaty, Convention, or Agreement.

"Gazette" means any official Gazette published by authority of the High Commissioner, and until such Gazette is instituted, means the Cape of Good Hope Government Gazette.

C. L. PEEL.

By Order in Council of 30 July, 1891, the fifth and sixth sections of the Order in Council of the 9th of May, 1891, were revoked, but without prejudice to anything lawfully done thereunder, and it was ordered that:—

In lieu of the sections so revoked the following two sections shall be taken to be part of the said Order, and shall be read as if they were the fifth and sixth sections thereof:—

"V. Every Proclamation of the High Commissioner shall be published in the Gazette, and shall, from and after a date to be mentioned in such Proclamation, and thereafter until disallowed by Her Majesty or repealed or modified by any subsequent Proclamation, have effect as if contained in this Order."

"VI. Her Majesty may disallow any such Proclamation wholly or in part, and may signify such disallowance through a Secretary of State, and upon such disallowance being publicly notified by the High Commissioner in the Gazette the provisions so disallowed shall, from and after a date to be mentioned in such notification, cease to have effect, but without prejudice to anything theretofore lawfully done thereunder."

XXXIV. Extracts from Speech of Mr. Cecil Rhodes, Premier of Cape Colony, in Cape House of Assembly in Moving the Second Reading of the Glen Grey Act, 30 July, 1894.

[Vindex, "Cecil Rhodes, His Political Life and Speeches," pp. 372-390.]

The proposition that I would wish to put to the House is this, that I do not feel that the fact of our having to live with the natives in this country is a reason for serious anxiety. In fact, I think the natives should be a source of great assistance to most of us. At any rate, if the whites maintain their position as the supreme race, the day may come when we shall all be thankful that we have the natives with us in their proper position. . . .

The question which has submitted itself to my mind with regard to the natives is this—What is their present state? I find that they are increasing enormously. I find that there are certain locations for them where, without any right or title to the land, they are herded

together. They are multiplying to an enormous extent, and these locations are becoming too small. The Transkei could support, perhaps, its present population of 600,000 people, but it is not able to support double that population. . . . The old diminutions by war and pestilence do not occur. Our good government prevents them from fighting, and the result is an enormous increase in numbers. . . . The problem before us is this. What is to become of these people? . . . As I have stated once before in this House, the natives have had in the past an interesting employment for their minds in going to war and in consulting in their councils as to war. But by our wise government we have taken away all that employment from them. We have given them no share in the government—and I think rightly, too—and no interest in the local development of their country. What one feels is that there are questions like bridges, roads, education, plantations of trees, and various local questions, to which the natives might devote themselves with good results. . . . It is our duty as a Government to remove these poor children from [a] life of sloth and laziness, and to give them some gentle stimulus to come forth and find out the dignity of labour. . . .

As to the question of voting, we say that the natives are in a sense citizens, but not altogether citizens—they are still children. And though we place them in individual positions with regard to certain pieces of agricultural land, we protect them by all sorts of laws. In so far as that land is concerned, the native has no right to claim a vote for it. And so it will be said you are going to take away the vote from the poor native. But if those gentlemen who say that they wish really to consider the welfare of these poor people, would think less about their votes, and more about their future, they would effect more. I know that these gentlemen talk much at missionary meetings about the poor natives, but I say to

them, "Try to do the natives some real good." Some honourable members may say that I have broken my pledges in interfering with the country by revising the voters' lists in the territories I have referred to. But this is not the case. It may, perhaps, be said that the Lists of Voters clause will rob these poor people of their votes. Nothing of the kind. I have found that nine-tenths of them were not entitled to vote at all. . . .

With reference to the labour tax, some newspapers in the Colony take it that all of the natives will have to pay the labour tax whether they work or not. Now, that is not the case. . . . There are a large number of young men in these locations who are like younger sons at home, or if you will have it so, like young men about town. These young natives live in the native areas and locations with their fathers and mothers, and never do one stroke of work. But if a labour tax of 10s. were imposed, they would have to work. . . . These native young men are not in a position to marry and settle down, because they have not got cows. They are a nuisance to every district in the Transkei, to every magistrate in the Transkei, and to every location. We want to get hold of these young men and make them go out to work, and the only way to do this is to compel them to pay a certain labour tax. But we must prepare these people for the change. Every black man cannot have three acres and a cow, or four morgen and a commonage right. We have to face the question, and it must be brought home to them that in the future nine-tenths of them will have to spend their lives in daily labour, in physical work, in manual labour. This must be brought home to them sooner or later. There is nothing new in this.

Now is the moment to deal with the question of taxation. I would do away with locations on private farms, the defect of which is that we do not know where the

natives are. I propose to use the labour tax for industrial schools and training. I propose that the neglect of labour should provide a fund for instruction in labour. I have called them industrial schools, but I mean that they should be carried on under regulations to be framed by the Government. Why? I have travelled through the Transkei, and have found some excellent establishments where the natives are taught Latin and Greek. They are turning out Kaffir parsons, most excellent individuals, but the thing is overdone. I find that these people cannot find congregations for them. There are Kaffir parsons everywhere—these institutions are turning them out by the dozen. They are turning out a dangerous class. They are excellent so long as the supply is limited, but the country is overstocked with them. These people will not go back and work, and that is why I say that the regulations of these industrial schools should be framed by the Government; otherwise these Kaffir parsons would develop into agitators against the Government. Let me go on and point out the way in which the minds of the natives should be occupied. I find that many of the friends of the natives would hear of their minds being employed in no other pursuit than that of electing members for Parliament. That was the question of the vote. "You must get them to vote for me," was the general position of the friend of the native.

Now, I say the natives are children. They are just emerging from barbarism. They have human minds, and I would like them to devote themselves wholly to the local matters that surround them and appeal to them. I would let them tax themselves, and give them the funds to spend on these matters—the building of roads and bridges, the making of plantations, and other such works. I propose that the House shall allow these people to tax themselves, and that the proceeds of their taxation

shall be spent by them on the development of themselves and of their districts. . . . By that means I propose that the country shall gradually be relieved of local expenditure in the Transkei. These people have the best portion of South Africa. I think that any one in charge of the Transkei is doing his duty to these people and to the country when he works with this object, that the Transkei should not be a charge on our funds for local purposes. So far as roads, bridges, etc., and even so far as education and the appointment of scab inspectors, and indeed all those which I may call local questions, are concerned, I want to ask that these people shall have, through district councils, this kind of representation.

[Mr. Rhodes went on to quote the proposals of the Labour Commission with regard to the question of liquor control, viz. that a canteen might be closed by the decision of a majority of the voters in the particular district but that the latter should pay adequate compensation to the owner.]

Before I finish dealing with the Bill, I will refer to the question of title. There is the payment of quit rents, and there is that of alienation with consent of the Government. Some newspapers have said that the whole object of the Bill is to get land into the hands of the white men, and I simply refer to the title to refute this. Again we hear the argument that after five years these people will sell out to the white men. My idea is that the natives should be kept in these native reserves, and not be mixed with the white men at all. Are you going to sanction the idea, with all the difficulties of the poor whites before us, that these people should be mixed up with white men, and white children grow up in the middle of native locations? In the interest of the white people themselves we must never let this happen. White labour cannot compete with black labour in this country —physical labour, I mean. . . .

I submit to this House that there are four propositions that come before us in regard to this question. We have to find land for these people; we have to find them some employment; we have to remove the liquor from them; and we have to stimulate them to work. . . . Do you admit that the native question is most dangerous? Do you admit that you have done nothing for these people? Do you admit that in many parts of the colony these people have been ruining themselves? Do you admit that century after century these large numbers could not be provided with land? Do you admit that these people are increasing at a great rate? This Bill puts forward various proposals to meet this state of things. I submit to the House that the idea that we could drive them out must be dismissed as regards those parts of the Colony which these people have occupied. They are our future labourers, and we cannot permit them in these areas to be ever increasing, and the places to be overstocked. I propose to apply these principles to Fingoland at once. It would be wise not to deal with the whole native question at once. The natives are children, and we ought to do something for the minds and the brains that the Almighty has given them. I do not believe that they are different from ourselves.

XXXV. The Glen Grey Act, 31 August, 1894.

Act No. 25 of 1894.

["Statutes of the Cape of Good Hope."]

The Labour Sections of the Glen Grey Act were repealed and the provisions as to Succession amended by Act 14 of 1905.

An Act to Provide for the Disposal of Lands and for the Administration of Local Affairs within the District of Glen Grey and other Proclaimed Districts.

31 *August*, 1894.

Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Areas Affected.

1. The provisions of this Act shall apply to the district of Glen Grey, the boundaries of which shall be as described in the Schedule of this Act and in whole or in part, with such modifications as may be necessary, to such other districts or portions of districts in which the inhabitants are mainly aboriginal natives, as may be brought under their operation by Proclamation: provided that, save as to the Transkeian Territories, no such Proclamation shall be published until it has been laid before both Houses of Parliament for not less than one month; and provided further that notice shall be given in the Gazette of the intention to issue such Proclamation, at least one month before the laying of such Proclamation before either House.

PART I.

Creation of Locations and Granting of Allotments therein.

2. From and after the promulgation of this Act, it shall not be lawful to allot to any person land within the locations situate in the district of Glen Grey, without the permission of the Governor.

3. The land of the district of Glen Grey, exclusive of—

(1) Lands already held by natives under ordinary quit-rent title, or in freehold,

(2) Lands already alienated to which titles have been granted under Act 14 of 1878 or other Acts,

(3) Lands already granted to missions, either in freehold or in quit-rent,

(4) Commonages attached to mission stations in which lands are held under individual tenure . . .

(5) Trading stations now established

(6) The Lady Frere Commonage and township

(7) Mineral leases already granted . . .

(8) Lands specially reserved by Government,

shall be divided into such number of locations in such manner as . . . shall be indicated by the erection of proper and sufficient beacons.

4. Lists of persons in occupation of land in the said locations at the time of the taking effect of this Act, and of other persons claiming to have land allotted to them, shall be framed by an officer or officers to be appointed for the purpose by the Governor. The officer or officers so appointed shall make special recommendations as to granting a larger extent of land than the average size hereinafter mentioned to such person as may be in occupation of such larger extent at the date of the taking effect of this Act. The locations shall be surveyed, and the available extent of arable land therein, after due allowance has been made for commonage and for dwelling sites, and after allotments to claimants specially recommended, as hereinbefore provided, shall be divided into allotments of four morgen each, more or less, which shall be granted to such persons named on the lists hereinbefore mentioned, as the Governor shall approve.

Form of Title Deed.

5. The title deed to be issued to persons specially recommended for allotments, and approved claimants, shall be subject to the conditions contained in and substantially in accordance with the form prescribed by the Schedule A to this Act and to such special servitudes as may be found to be necessary.

It shall not be competent for the registered holder of such land to mortgage the said land, or in any way to pledge his interest therein.

Commonages and control of Locations by Boards.

6. [All land save that mentioned in Section 11 to be reserved in each location as commonage for the

registered holders, the Governor to have certain rights over it, such as the making of railways, telegraphs, etc.]

7. Each location including the commonage shall be under the control of a board of three persons who shall be appointed by the Governor after the consideration of the wishes and recommendations of the resident holders of land in the location, determined and expressed in such manner as may be prescribed by regulations to be framed by the Governor. The members of the Board, who shall be resident holders of land within the limits of the location, shall hold office, during pleasure, for one year, but shall be eligible for re-appointment.

9. Headmen shall not be deemed to be ineligible for appointment as members of Location Boards by reason of their being in receipt of salary from public funds.

10. It shall be lawful for the Governor, from time to time, to make, alter, and repeal regulations conferring upon Location Boards such of the powers vested in Village Boards of Management by the Villages Management Act, 1881, and subsequent enactments, as may be deemed to be desirable and applicable. All money made payable by virtue of such regulations, and all fines imposed and recovered for contravention thereof, shall be paid to the Location Board, who shall administer such funds in carrying out the duties imposed upon them under this Act.

Erection of Buildings upon Commonage.

11. It shall be lawful for the Governor, subject to the concurrence of the Location Board as to the site, upon being satisfied that a registered holder is desirous of erecting a substantial house or other buildings upon the commonage, to grant to such person such extent of land not exceeding half an acre as he may deem necessary for that purpose, and the land so granted shall thereupon be held by such registered holder upon

the terms and conditions prescribed by this Act in regard to arable lands.

[12-16. . . .]

Part II.

Alienation and Transfer.

17-18. [Approval of Governor necessary for alienation and transfer of land and legal forms necessary for same to be sent by Resident Magistrate of District to Registrar of Deeds at Cape Town.]

Administration and Distribution of Estates.

19-23. [Administration of estates of deceased holders of quit-rent titles to be administered and distributed according to customs and usages of tribe, subject to any testament deceased may have left in accordance with the law of the Colony.

Power given to Governor to lay down rules and regulations as to course of procedure in regard to administration and distribution of estates of a deceased holder.]

Law as to Succession.

24. The allotment and other immovable property of every registered holder shall not be capable of being devised by will, but upon his or her decease shall devolve upon and be claimable according to the rule of primogeniture by one male person to be called the heir and to be determined by the following table. . . .

25. In case any registered holder shall desire to disinherit his heir, either wholly or in part, for gross misconduct or incapacity to deal with or manage the heritable property, or through insanity or idiocy, it shall and may be lawful for the Resident Magistrate of the District on application of such holder to summon before him the heir so proposed to be disinherited, and in the presence of such heir or in his absence, in case

he should neglect or refuse to appear at the time and place mentioned in the summons, to inquire into all the circumstances and to make such order in the premises as may seem meet, and record of such proceedings shall be kept by the Magistrate.

[26-32. . . .]

Part IV.

Labour Tax.

33. Every male native residing in the district, exclusive of natives in possession of lands under ordinary quit-rent titles, or in freehold, who in the judgment of the Resident Magistrate is fit for and capable of labour shall pay into the public revenue a tax of ten shillings per annum: Provided that upon any native satisfying the Resident Magistrate that he has been in service or employment beyond the borders of the district for a period of at least three months during the twelve months preceding the date on which the said tax is payable, such native shall be exempt from the payment of the tax for that year; and provided further that such native shall become exempt from any further payment of such tax as soon as he shall have satisfied the Resident Magistrate that he has been in service or employment beyond the borders of the district for a total period, consecutive or otherwise, of not less than three years. To every such native as in the latter proviso mentioned a certificate in a form to be prescribed by the Governor shall be given by the Resident Magistrate, stating that he is exempt from further payment of the said tax.

34. The Resident Magistrate may from time to time exempt for one year from the payment of the aforesaid tax any native who may for good and sufficient reasons be proved to the satisfaction of the said Magistrate to be unable to leave his location for the purpose of enter-

ing into service or employment, or who may, with the permission of the Resident Magistrate first had and obtained, have been *bonâ fide* within the said district in service or employment at an adequate wage or remuneration for the period of three months provided for by the last preceding section, and every member of a Location Board and of the District Council shall, during his term of office, be exempted from payment of the said tax.

35. [Tax to become due and payable January 1 in each year. Proceeds to be devoted to the establishment and maintenance of schools for the education of the natives of the district in trades and agricultural labour.]

36. [In case of a native failing to pay the said tax, upon a first offence his goods and chattels to be sold and tax paid out of proceeds, upon a second offence to suffer imprisonment.]

Part V.

Establishment of "The District Council."

[37. . . .]

38. It shall be lawful for the Governor, by proclamation, to establish a Council, to be styled "The District Council" for the administration of local affairs within the district of Glen Grey.

39. The said Council shall consist of twelve members who shall be styled Councillors, and shall be appointed in the following manner:—

(1) Six Councillors shall be nominated and appointed by the Governor.

(2) The members of the several Location Boards . . . shall at meetings to be called by the Resident Magistrate, select three of their number to be recommended to the Governor for appointment as representatives . . . in the Council: Provided that should the Governor not deem it desirable that any one or more of the persons

so selected should be appointed to the Council, he may call upon the members of the Boards to nominate another suitable person or persons in his or their stead, and should they fail to do so, he may appoint such person or persons to the Council as he may deem fit.

40. The said Councillors shall, during pleasure, hold office for a period of three years, but shall be eligible for re-appointment. The first Council shall be appointed on a date to be fixed by the Governor, and thereafter the Council shall enter upon office on the first day of October in every third year.

41. [Power of filling vacancies to be in hands of Governor.]

42-45. [Resident Magistrate to be Chairman at meetings and have casting vote.]

46. [Councillors to be paid according to a tariff framed by the Governor.]

48. The Council shall also in each year levy a rate of not less than five shillings to be paid by every registered holder and by every other male adult native, resident in the district, who is fit for and capable of labour exclusive of natives in possession of lands under ordinary quit-rent title or in freehold.

[49-52. . . .]

53. [All money raised from rates to be appropriated, subject to the approval of the Governor, to local works and purposes such as salaries of lawfully appointed officers of the Council, construction of roads, bridges, schools, etc.]

Labour Bureau.

59. The District Council shall receive at its office applications from public departments, contractors, firms and persons desirous of obtaining the services of native labourers from the district, and shall arrange for supplying the same and for the despatch of natives who shall

take, or be desirous of taking, employment to the districts in which their services are required. It shall be lawful for the Governor to frame, alter and revoke rules and regulations providing for the registration by the Council of persons fit and capable of labour, and generally for carrying out the provisions of this section.

Part VI.

Liquor Licences.

60-64. [District Council to appoint three of its members to sit as members of the Licensing Court of the District set up by the Liquor Licensing Act of 1883. District Council to signify its approval to the Resident Magistrate for the granting of a licence. A licence may not be renewed without the approval of the District Council signified to the Resident Magistrate.]

Part VII.

Regulations.

65. It shall be lawful for the Governor to make, alter and revoke regulations for all or any of the following purposes, that is to say:—

(1) Prescribing the mode of valuation of immovable property liable to rates.
(2) Regulating the proceedings of the Council.
(3) Providing for the appointment of officers of the Council and regulating their duties.
(4) For the incidence, assessment and recovery of rates and taxes.
(5) For carrying out the duties assigned to the Council.
(6) Prescribing the mode of accounting for the revenue and expenditure of the Council and of auditing the same.
(7) Generally for the purposes of this Act.

66. [Any regulation made under this Act may impose

penalties for any breach thereof but no penalty to exceed twenty Pounds sterling.]

67. A copy of the Gazette containing any regulation shall be evidence of the due making and provisions therof.

Provision as to Commonages attached to certain Mission Stations.

68. The provisions of sections seven to eleven and fifteen to twenty-six, inclusive, of this Act, shall apply to the locations of Mount Arthur, Zwartwater, Bowden, Fransburg, and Agnes, in which individual titles to allotments have been issued under authority of the Governor, and it shall be lawful for the Governor to withdraw the operation of the Villages Management Acts from any of the above-mentioned locations in which they may be in force, and, for the purposes of this Act, to combine any one or more of the said locations with any location constituted under the provisions of section three of this Act.

[69. . . .]

Short Title.

70. This Act may be cited as the "Glen Grey Act, 1894."

[The Glen Grey Act was amended in its provisions as to taxation and the table of succession by the Cape Act, 6 October, 1899.]

XXXVI. Act Providing for the Annexation of British Bechuanaland to Cape Colony, 1895.

[Act No. 41 of 1895. "Statutes of Cape of Good Hope," iii., p. 3571. Reprinted in Parl. Pap., C. 7932, p. 18.]

Act to make Provision for the Annexation to this Colony of the Territory of British Bechuanaland.

Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof as follows:—

. . . From and after the taking effect of this Act the territory of British Bechuanaland, within the boundaries

thereof as then defined, shall become annexed to and thenceforth be portion of this Colony, and, subject to the provisions of this Act, more especially section sixteen thereof, the law of this Colony, shall be of full force and effect in the said territory, the Governor of this Colony being deemed to be referred to in place of the Governor or Administrator of the said territory in any law which, after annexation, shall continue to be in force in the said territory. . . .

XXXVII. Extract from Proceedings of Cape Assembly concerning the Amendment of Articles of Customs Convention, 3 May, 1897.

[Parl. Pap., Cd. 3564., pp. 63-64.]

Mr. Schreiner moved—"That Mr. Speaker's ruling be obtained on the point whether, in view of the fact that the Convention referred to the Committee was one between the Governments of the Cape of Good Hope and the Orange Free State, it was competent in Committee to move Amendments to any Articles of the Convention."—*Agreed to.*

House Resumed.

Mr. Speaker in the Chair.

The Chairman stated the point on which Mr. Speaker's ruling was desired.

Mr. Speaker ruled—"In 1889, when the first Customs' Union Convention was entered into, the mode of procedure adopted was that a Bill was introduced. During the consideration thereof, the leader of the Opposition gave notice of a Motion challenging some of the principles involved in the Convention, whereupon the then Prime Minister gave notice of an Amendment affirming the Convention, in substantially the same terms as the Motion now before the Committee. This Amendment was carried. When the Bill, with the Tariff annexed came before the House, it was ruled by Mr. Speaker that

no alteration could be made in the tariff, because the House had already agreed to it by the resolution. The result of that ruling is, that if the present proposed resolution is carried, the House will be precluded from altering the tariff hereafter. Now I do not admit that there is any constitutional principle by which the Crown can by way of treaty impose taxation upon the people, so as to prevent its representatives in Parliament from altering that taxation, if it should think fit. It is the constitutional principle that the Government initiate proposals for taxation, but it is a fundamental principle that the House may either reject, or accept, or modify, such taxation. The point as put to me is raised in the form, whether there can be an Amendment to any Article of the Convention, but Article 1 is really nothing more than the tariff, and the right to regulate taxation cannot be taken away by the form in which the question is raised. The question before the Committee is a Motion; it is open to any Member to move any Amendment in that Motion either by omitting, inserting or adding words; and if any Member proposes an alteration in the Tariff he is entitled to do so, by, e.g.—adding words to the effect: 'Save and except in regard to the item specified the duty on which shall be . . . instead of . . . ' This is the proper form of such Amendment. In form it will not be an Amendment of the Articles of the Convention, though it will be such in substance. It will be in form an Amendment to the Motion now before the House in the direction I have pointed out."

XXXVIII. Extracts from Speech of Right Hon. Cecil Rhodes concerning the Policy of the Progressive Party, Cape Town, 12 March, 1898.

[Vindex, "Cecil Rhodes, His Political Life and Speeches," pp. 534-543.]

The only chance of union is the overshadowing protection of a supreme power. Any German, French-

man, or Russian would tell you that the best and most liberal Power in the world is that over which Her Majesty reigns. Now let us summarise the two distinct lines upon which the country—that is, the Colony—is now crystallised. On the one side you have the idea of teaching your children to contribute towards Her Majesty's Navy, to fight against drunken labour—meaning by that to keep liquor from the barbarian who cannot be responsible for the amount he takes. You have many other broad ideas of what you term progress. In addition to that, as to your external questions, you say, "We wish to draw nearer to Natal and the North. We would like to give the Uitlander in Johannesburg the idea that, though we cannot interfere, we are in sympathy with his desire and aim to obtain citizen rights." That is the thought on the one side, with many other minor details. What is the thought on the other? To revert to scabby sheep, to oppose compulsory education, and various other details—such as billiards and Sunday trains—to oppose any contributions to the Navy; and, as to external things, to place, not the Transvaal, but the present Government of the Transvaal, paramount whatever it does, and to agree and concur in it. . . . So that on the present lines, there is nothing to gain from supporting what I may call the *Ons Land* policy. There is everything to gain by the adoption of the programme of the Progressives. . . .

I must say to you that one has had great trouble—during the last two years—most probably as everyone might say, owing to my own faults; but with a high object. The methods have been worthy of condemnation; but, gentlemen, remember this, you all have your trials, you all have your troubles, and then you become better men. I don't falter. I have not faltered in my greater thoughts—the closer union of this country. I could have had a happy, a pleasant, and a great time,

given to few, in the development of a new State representing 800,000 square miles of Her Majesty's Empire; but the picture would not be complete unless that State kept in complete harmony, in complete unison with the South—the South from which everything has gone up, and which Nature meant to be in close contact, in close sympathy, and in closer union with the rest of South Africa and Central Africa. A disappearance into the North might mean another State arising with hostile aims and hostile thoughts against your State, and I feel that as that State bears my name the best service I can render to the country is to return here and to assist you in your big aims of closer union. . . . If you will assist in our drawing closer to Natal and the North, not in antagonism with the other two States that remain—though I hope in time they, too, will be federalised—the future may be speedy. For, as we draw together, and that new population in the Transvaal rises, as we are assured and know it will, to half a million of people—most probably after Mr. Kruger's death and after mine—the union of the three States will mean the ultimate union of the whole.

That union is perfectly possible in the next five years. On what does it depend? It simply depends on the North proving itself a gold-producing country. . . . If you have a Progressive majority in the Council followed by a Progressive majority in the House, during the next five years these questions will probably be put. If you return a non-Progressive party, or an *Ons Land* party, or a Hofmeyr party, they will never consent to union because they are afraid to lose the oligarchical domination which exists here and in the Transvaal, which is out of sympathy entirely with republican ideas and Imperial ideas, which preaches that the government of the few shall run a State. That has to be fought, and I am anxious that the system of govern-

ment by the few, established through the excitement of race feeling, shall not exist here. That is why I speak boldly and clearly. You know it is so, and that is why I point out the serious issue before you. Return the Progressive majority, and you will deal with these questions of closer union, because you want a great United South Africa. Return the non-Progressive majority, and all these questions will be opposed. I will put it neatly; Kruger will be supported and the Northern development damned.

XXXIX. Order in Council providing for the Government of Southern Rhodesia, 20 October, 1898.

[House of Commons Papers (1905), 130, pp. 9-23.]

At the Court at Balmoral,
The 20th day of October, 1898.
Present:
The Queen's most Excellent Majesty
Duke of Fife
Earl of Kintore
Lord George Hamilton.

Whereas the territories of South Africa situated within the limits of this Order, as hereinafter described, are under the protection of Her Majesty the Queen:

And whereas by treaty, grant, usage, sufferance, and other lawful means, Her Majesty has power and jurisdiction in the said territories:

Now, therefore, Her Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890, or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Southern Rhodesia Order in Council, 1898. Short title.

Divisions of Order.

2. This Order is divided into parts, as follows :—

	Articles.
I. Interpretation and Application . .	3-6
II. Administration and Legislation . .	7-47
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IV. Judicial	49-78
V. Native Administration . . .	79-89
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PART I.—INTERPRETATION AND APPLICATION.

Interpretation.

3. In this Order, unless the subject or context otherwise requires :—

"Charter" means Her Majesty's Charter of the 29th day of October, 1889, incorporating the [British South Africa] Company. . . .

"Ordinance" means a legislative Ordinance made by the Administrator by and with the advice and consent of the Legislative Council under this Order.

"The Colony" means the Colony of the Cape of Good Hope.

"Supreme Court" means the Supreme Court of the Colony. . . .

"Native" means any person not of European descent who is a native of South Africa, or of Central Africa. . . .

Limits of Order.

4. The limits of this Order are the parts of South Africa bounded by the Portuguese Possessions, by the South African Republic to a point opposite the mouth of the River Shashi, by the River Shashi to its junction with the Tati and Ramaquaban rivers, thence by the Ramaquaban river to its source, thence by the watershed of the rivers Shashi and Ramaquaban until such watershed strikes the Hunters' Road (called the Pandamatenka Road), thence by that road to the River Zambesi, and by that river to the Portuguese boundary. The said limits include an area of ten miles radius round Fort Tuli, but exclude the area of the district known as the Tati district as defined by the Charter.

The territory for the time being within the limits of this Order shall be known as Southern Rhodesia. Title of territory.

5.—(1) A Secretary of State may from time to time, by notice published in the Gazette and in the London Gazette, declare that any parts of South Africa south of the River Zambesi, and under the protection of Her Majesty, shall be included in the limits of this Order, and from the date of the publication of the notice in the Gazette this Order shall apply to the parts named therein. Extension of limits of Order.

(2) A Secretary of State may from time to time by the like notice declare that any part of South Africa for the time being within the limits of this Order shall, until otherwise directed, be excepted from the application of this Order; and from the date of the publication of such notice in the Gazette, the part named therein shall be excluded from the limits of this Order. Reduction of limits of Order.

6.—(1) The powers and authorities conferred upon the High Commissioner by Her Majesty's Order in Council of the 9th of May, 1891, providing for the exercise of Her Majesty's jurisdiction in certain territories of South Africa as amended by Her Majesty's Order in Council of the 30th July, 1891, shall continue in force within the limits of this Order concurrently with the powers conferred upon the Company by this Order. High Commissioner's powers continued in force.

(2) The powers conferred upon the Company by this Order are in augmentation of the powers conferred upon it by the Charter. Augmentation of Company's powers under Charter.

PART II.—ADMINISTRATION AND LEGISLATION.

7. The Company shall have and may exercise the general administration of affairs within the limits of this Order, in accordance with the terms of the Charter General administration of affairs by Company.

and any Charter amending the same or Supplementary thereto and the provisions of this Order.

The Administrator and other officers.

8.—(1) The Company may exercise such administrations by one or more Administrators, and under him, or them, by such other officers as may from time to time be necessary, and may from time to time, with the approval of a Secretary of State, determine the number of Administrators.

Limits of Administrator's province.

(2) The Company, with the approval of a Secretary of State, may from time to time assign the local limits of the Province within which an Administrator shall act.

Precedence of Administrators.

(3) Whenever there is more than one Administrator, the Company, with the approval of a Secretary of State, shall determine the precedence of the several Administrators.

Appointment and salary of Administrator.

9. The Company shall appoint the Administrator or Administrators and shall pay his or their salaries and the salaries of such officers as may be required for the administration of Southern Rhodesia: but shall obtain the approval of a Secretary of State before appointing any person to the office of Administrator. The salary of an Administrator shall be fixed by the Company, with the approval of a Secretary of State, and shall not be increased or diminished without his approval. An Administrator may be removed or suspended from office by a Secretary of State, or by the Company with the approval of a Secretary of State.

10.—(1) [Tenure of office by Administrator, three years. Eligible for re-appointment.]

(2) [Appointment by Secretary of State in Company's default.]

11.—(1) [Appointment of Acting Administrator in case of absence from Southern Rhodesia of Administrator, etc.]

(2) [Precedence, powers and duties of Acting Administrator as that of Administrator.]

Resident Commissioner—Salary, duties, and precedence of.

12. The Secretary of State may appoint an officer who shall reside within Southern Rhodesia, and who shall be called the Resident Commissioner.

(1) The Resident Commissioner shall be paid out of money provided by Parliament such salary and allowances as a Secretary of State, with the concurrence of the Treasury, may determine.

(2) The Resident Commissioner shall be ex-officio a member of the Executive and Legislative Councils, and shall be entitled to be present at any meeting of either Council, and at any meeting of any Committee thereof, and shall be entitled to speak but not to vote at any such meeting.

(3) The Resident Commissioner shall make a report to the High Commissioner upon every Ordinance submitted for his assent and upon all appointments submitted for his approval, and shall, as occasion may require, fully inform the High Commissioner upon all matters of importance arising within the limits of this Order.

(4) The Resident Commissioner shall take precedence next after the Administrator.

(5) Every Administrator shall supply or cause to be supplied to the Resident Commissioner, by such officer and such place as he may desire, all such information and all such documents of whatever nature having reference to the administration or the officers and servants of the Company as the Resident Commissioner may at any time require, and shall furnish true copies of any such documents at any time if requested by the Resident Commissioner so to do.

Executive Council—Constitution of.

13.—(1) There shall be in Southern Rhodesia an Executive Council to assist the Administrator,

consisting of the Resident Commissioner, every Administrator other than the Senior Administrator, and not less than four members appointed by the Company, with the approval of a Secretary of State. A member of the said Council shall hold office for three years, unless sooner removed by the Company, with the like approval, but shall be eligible for re-appointment.

(2) [Precedence of Members.]

President of Executive Council.

14.—(1) The Administrator shall preside at the meetings of the Executive Council. In his absence, the Administrator next to him in order of precedence who is present, or, if no Administrator is present, such other member of the Executive Council as the Senior Administrator shall designate in writing shall preside at the meetings of the Council.

Meetings of Executive Council.

(2) The Executive Council shall meet whenever summoned by the Administrator at such time and place as shall be specified in the summons. The Administrator shall on the request of any other Administrator or of the Resident Commissioner immediately summon the said Council.

Quorum.

(3) Three members exclusive of the Resident Commissioner shall form a quorum.

Administrator to take advice of Executive Council, except in urgent cases.

15. An Administrator shall take the advice of the Executive Council upon all matters of importance affecting the administration of affairs within the limits of the Province to which he has been appointed, except in cases which are too urgent to admit of their advice being taken. In all such urgent cases the Executive Council shall as soon as possible be summoned and acquainted with the action taken and the reasons therefor.

Administrator may act contrary to advice of Executive Council.

16. An Administrator may act contrary to the advice of the Executive Council, but in every such case he shall

report the matter forthwith to the Company, with the reasons for his action. In every such case any member of the Council who dissents may require that the reasons for his dissent be recorded and transmitted to the Company. The Company may reverse any action of an Administrator whether taken with, or without, or against, the advice of the Executive Council.

Legislative Council—Constitution of.

17.—(1) There shall be in Southern Rhodesia a legislative body to be styled "The Legislative Council," composed of the Administrator or Administrators for the time being, the Resident Commissioner, and nine other members, of whom five, hereinafter referred to as "nominated members," shall be appointed by the Company, with the approval of a Secretary of State, and four shall be elected by the registered voters in the manner hereinafter provided. Provided that the proceedings of the Council shall not be invalid on account of any vacancies therein.

Precedence of Members.

(2) The nominated members of the Legislative Council shall take precedence of the elected members. The Company, with the approval of a Secretary of State, shall determine the precedence of the nominated members amongst themselves. The elected members shall rank among themselves in order of the date of their election, and two or more members elected on the same day shall rank in the alphabetical order of their names.

18. It shall be lawful for the High Commissioner, by Proclamation, after consulting the Administrator.

Electoral Districts.

(1) To create electoral districts and to declare what number of members shall be elected to the Legislative Council for each district;

Qualifications of electors and elective members.

(2) To fix, subject to the provisions of this Order, the qualifications of electors and elective members respectively; and

Elections.

(3) Generally to make all such provisions and regulations for the registration of voters, the issue of writs, the manner and time of holding elections and otherwise, in respect of the election of members to the said Council as shall from time to time appear to him to be necessary for the proper conduct of such proceedings.

Convocation, prorogation, and dissolution of Legislative Council.

19. The Legislative Council may, from time to time be convoked, prorogued, and dissolved by any instrument under the hand of the Administrator.

To meet once at least in every year.

20. The Legislative Council shall be convoked within six months after the publication of this Order in the Gazette, and afterwards once at least in every year.

Place of meeting.

21. The place of meeting of the Legislative Council shall be fixed by the instrument convoking the meeting.

Duration.

22. The duration of the Legislative Council, unless sooner dissolved, shall be three years.

President of Legislative Council.

23. The Administrator shall preside at the meetings of the Legislative Council, and in his absence, the Administrator next to him in order of precedence who is present, or, if there be no Administrator present, such other member of the Council as may be appointed in writing by the Administrator, shall preside at the meetings of the Legislative Council.

Resignation of members.

24. A member of the Legislative Council may resign his seat by writing under his hand, addressed to the Administrator, but no resignation shall take effect until it be accepted in writing by the Administrator. Any member resigning shall be eligible for re-appointment, or, unless disqualified as hereinafter provided, for re-election.

Removal, suspension, and resignation of nominated members.

25.—(1) The nominated members of the Legislative Council may be removed or suspended by the Company.

(2) The nominated members shall hold their seats until the next dissolution of the Legislative

Council after their appointment, unless they previously resign their seats or are removed or suspended.

(3) Whenever the seat of a nominated member becomes vacant by death, resignation, or removal the Company shall appoint a successor; in default of such appointment by the Company within a period of three months from the occurrence of the vacancy a Secretary of State may appoint a person to fill the vacancy.

Disqualifications for election.

26. No person shall be qualified to be an elected member who—

(1) Is an infant or is not a British subject by birth or naturalisation;

(2) Has within five years before his election, or since his election, been convicted of any crime and sentenced to imprisonment with hard labour without the option of a fine, or to any greater punishment, and has not received a free pardon, or has, within or during the time aforesaid, surrendered his estate as insolvent, or made a composition or arrangement with his creditors;

(3) Provided that where a person is disqualified by having surrendered his estate as insolvent, or made a composition or arrangement with his creditors, the disqualification shall cease, in case of insolvency, when the debtor has obtained his rehabilitation or paid his debts in full.

Elected members accepting office of profit.

27. Every elected member who shall accept any office of profit under the Government of Southern Rhodesia shall vacate his seat in the said Council, but shall be eligible for appointment as a nominated member.

Election to fill vacancy.

28. When any elected member becomes disqualified, or vacates his seat in the Legislative Council otherwise than by the dissolution thereof, the Administrator shall take steps forthwith, in accordance with the provisions

for the time being in force with respect to the election of members of the Legislative Council, for the election of a successor by the electors of the district which such elected member represented.

Standing rules.

29. Standing rules for the orderly conduct of business shall be made by the Legislative Council at its first meeting, and thereafter from time to time as occasion shall require.

Filling of temporary vacancies in Executive or Legislative Councils.

30.—(1) In the event of the suspension, absence from Southern Rhodesia, or other incapacity of a member of the Executive Council or of a nominated member of the Legislative Council, the Company may, with the approval of a Secretary of State, appoint some other person to fill the temporary vacancy thus caused.

(2) Provided that in default of such appointment by the Company within a period of three months after a vacancy has arisen, a Secretary of State may appoint a person to fill the vacancy.

(3) Every member appointed to fill any such temporary vacancy shall cease to be a member on the return to Southern Rhodesia or the removal of the suspension or incapacity of the member in whose place he was appointed.

Quorum of Legislative Council.

31. Until otherwise determined by the Legislative Council the said Council shall not be considered as constituted for the despatch of business unless at least six members, exclusive of the Resident Commissioner, be present and assisting thereat.

Voting.

32. Questions arising in the Legislative Council shall be decided by a majority of votes of the members present other than the Resident Commissioner. In the event of an equality of votes the Administrator or other presiding member shall have a second or casting vote.

Oath of allegiance.

33. Every member of the Executive or Legislative Councils shall, before taking his seat, take and subscribe

before the Administrator or some other person authorised by him the following oath of allegiance :—

"I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her Heirs and successors according to law. So help me God."

But any person authorised by law to affirm or declare instead of taking an oath may make such affirmation or declaration in lieu of such oath.

Minutes to be kept of proceedings of Executive and Legislative Councils.

34.—(1) Full and exact journals or minutes shall be kept of all the proceedings of the Executive and Legislative Councils, and of the proceedings of all Committees thereof, and at each meeting of either Council or of any such Committee the minutes of the last preceding meeting shall be read over and confirmed or amended, as the case may require, before proceeding to the despatch of other business.

Transmission of minutes to Resident Commissioner and to Company.

(2) A full and exact copy of such minutes as confirmed or amended shall be transmitted forthwith to the Resident Commissioner.

(3) Twice in each year a full and exact copy of all the said minutes for the preceding half year shall be transmitted by the Administrator to the Company, and the Company shall upon the receipt thereof forthwith transmit a true copy to a Secretary of State.

Power to make Ordinances.

35. It shall be lawful for the Administrator by and with the advice and consent of the Legislative Council to make Ordinances for the peace, order, and good government of Southern Rhodesia.

Ordinances to have assent of High Commissioner.

36. All Ordinances shall be submitted to the High Commissioner for his assent, disallowance, or other direction thereon, together with a report thereon by the Resident Commissioner, and no Ordinance shall take effect until the High Commissioner shall have signified

his assent thereto and the Ordinance, together with a notification of such assent, shall have been published in the Gazette.

Disallowance of Ordinances.

37. The High Commissioner shall sign every Ordinance assented to by him and shall, at the first convenient opportunity, transmit an authenticated copy of every such Ordinance to a Secretary of State, and every such Ordinance may be disallowed within one year from the taking effect thereof by a Secretary of State, either of his own motion or at the request of the Company, and every Ordinance so disallowed shall become null and void so soon as the disallowance thereof shall be published in the Gazette, but without prejudice to anything theretofore lawfully done thereunder.

An Ordinance may amend or repeal a Proclamation.

38. An Ordinance may amend or repeal a Proclamation.

Ordinances void if repugnant to any Order in Council.

39. If any Ordinance is in any respect repugnant to the provisions of an Order made by Her Majesty in Council, such Ordinance shall be read subject to such Order, and shall to the extent of such repugnancy be absolutely void.

Fiscal votes.

40. No fiscal vote or resolution shall be proposed in the said Council except by the Administrator, acting on the instructions of the Company, or by his authority in writing previously obtained.

Estimates to be submitted annually.

41. The Administrator shall submit to the Legislative Council before the expiration of the month of December, in each year, such an Estimate as he may think necessary of the whole expenditure, not already fixed, which is intended to be incurred for services within Southern Rhodesia, together with an Estimate of the revenue of Southern Rhodesia for the financial year then next ensuing, and shall transmit to the High Commissioner and to the Company, at the earliest opportunity, an Ordinance providing for the service of that year.

Supplementary Estimates.

42. When the annual Estimate shall have been

passed by the Legislative Council, and the Ordinance has been approved by the High Commissioner, the expenditure of the year shall be held to be definitely limited and arranged. Should, however, any further disbursements on account of the service of that year be required which have not been foreseen, the Administrator shall submit to the Legislatve Council a Supplementary Estimate of the expenditure so required.

Expenses of an unusual nature.

43. The Administrator shall transmit with the Annual Estimates such full and sufficient information as to every expense of an unusual nature therein comprised as may be necessary to enable the High Commissioner and the Company to judge of the propriety of the proposed expenditure, together with a table exhibiting the variations from the preceding year.

Ways and means Ordinance.

44. The Administrator shall, at the same time that he proposes to the Legislative Council the Estimate of the ensuing year's expenditure, submit to them the draft of any Ordinance which may be necessary to provide the ways and means by which the expenditure is to be met.

Annual publication of revenue and expenditure.

45. Detailed statements of the revenue and expenditure of Southern Rhodesia shall be annually published in the Gazette, immediately after the period when it is required that the accounts of each year are to be transmitted for audit.

Annual audit of accounts.

46. Provision shall be made for a full and sufficient audit once in every year of the accounts of the Company relating to all sums received and moneys expended by the Company in connection with the administration of Southern Rhodesia.

Limit of Customs duties on British goods.

47. No Customs duties levied on any articles produced or manufactured in any part of Her Majesty's Dominions or in any British Protectorate and imported into Southern Rhodesia shall exceed in amount the duties levied on such articles according to the tariff in force in the South African Customs Union at the

commencement of this Order, or the tariff contained in the Customs Union Convention concluded between the Colony, the Orange Free State, and Natal, in May 1898, whichever are the higher.

PART III.—POLICE.

Military police forces.

48.—(1) The military police forces shall be and remain under the direct control and authority of the High Commissioner, and all officers and members of the said forces shall conform to and obey such orders and instructions as they may from time to time receive from the High Commissioner, or from any person appointed by him to act on his behalf.

Appointment of Commandant General and officers.

(2) The officer exercising the chief command of the said forces shall be styled "the Commandant General," and such Commandant General and the subordinate officers of the said forces shall be appointed by a Secretary of State. The Commandant General shall be paid out of money provided by Parliament such salary as a Secretary of State, with the concurrence of the Treasury, may determine.

Reduction of numbers.

(3) The numbers of the military police forces shall not at any time be reduced without the previous approval of the High Commissioner, but this provision shall not apply to volunteer forces.

Duties of Commandant General.

(4) Subject to any such orders and instructions from time to time given by or by the direction of the High Commissioner, it shall be the duty of the Commandant General to preserve peace and order, and for such purpose to employ the said forces in such manner as he may think proper, paying due regard to any requests in that behalf from time to time made to him by an Administrator or other officer of the Company. If

in any case the Commandant General deems it undesirable to comply with any such request, he may apply to the High Commissioner for instructions, and shall act in accordance with the instructions given by the High Commissioner.

Cases of urgency.

(5) Provided that in case of urgency, when it is possible to communicate more quickly with the Resident Commissioner, the Commandant General may apply to the Resident Commissioner for instructions instead of applying to the High Commissioner.

Military operations.

(6) The Commandant General shall in no case take action of the nature of a military operation without the authority of the High Commissioner or Resident Commissioner, as the case may be.

PART IV.—JUDICIAL.

High Court of Southern Rhodesia.

49.—(1) There shall be a Court of Record, styled the High Court of Southern Rhodesia, with full jurisdiction, civil and criminal, over all persons and over all matters within Southern Rhodesia, subject to the provisions hereinafter contained with regard to native law or custom.

Law to be administered.

(2) The law to be administered by the High Court and by the Magistrates' courts hereinafter mentioned shall, so far as not inapplicable, be the same as the law in force in the Colony on the 10th day of June, 1891, except so far as that law has been modified by any Order in Council, Proclamation, Regulation or Ordinance in force at the date of the commencement of this Order.

(3) The Courts shall give effect to such Orders in Council, Proclamations, Regulations, or Ordinances until altered or repealed, and to any Order in Council, Proclamation, or Ordinance hereafter

to be made, except so far as any such Proclamation or Ordinance is repugnant to this Order, or to any other Order made by Her Majesty in Council.

(4) Provided that no Statute of the Colony of the Cape of Good Hope promulgated after the 10th day of June, 1891, shall be of any effect within the limits of this Order, unless specially applied thereto by Proclamation, Ordinance, or Regulation.

Native law. 50. In civil cases between natives the High Court and the Magistrates' courts shall be guided by native law so far as that law is not repugnant to natural justice or morality, or to any Order made by Her Majesty in Council, or to any Proclamation or Ordinance. In any such case the court may obtain the assistance of one or two native assessors, to advise the court upon native law and customs, but the decision of the court shall be given by the Judge or Magistrate alone. In all other respects the court shall follow as far as possible the procedure observed in similar cases in the courts of the Colony.

Polygamous marriages. 51. If in any civil case between natives a question arises as to the effect of a marriage contracted, according to native law or custom, by a native in the lifetime of one or more other wives married to him according to native law or custom, the court may treat such marriages as valid for all civil purposes, in so far as polygamous marriages are recognised by the said native law or custom.

52-53. [Judges of the High Court to be appointed by a Secretary of State on the nomination of the Company and to hold office during good behaviour.]

54-57. [Procedure and Sittings of Court. The High Commissioner may remit or commute sentences.]

Appeal. 58-59. In civil matters when the amount or value in

dispute exceeds one hundred pounds sterling, an appeal shall lie from the High Court to the Supreme Court. . . . The jurisdiction conferred by this Article upon the Supreme Court shall not be exercised until the Legislature of the Colony shall, by resolution or otherwise, have expressed its assent thereto, and until the High Commissioner shall have communicated such assent to the High Court.

Criminal appeals.

60. In criminal matters an appeal shall lie from the High Court to the Supreme Court in the cases herein provided for and in no others.

Provided that the jurisdiction hereby conferred in such criminal matters shall not be exercised by the Supreme Court until the Legislature of the Colony shall, by resolution or otherwise, have expressed its assent thereto, and until the High Commissioner shall have communicated such assent to the High Court.

61-68. [Powers of Supreme Court upon Appeals.]

69. There shall be Magistrates' courts with jurisdiction over all persons within the districts assigned to them. . . .

70-78. [Provisions for the holding of Magistrates' courts and for their jurisdiction.]

Part V.—Native Administration.

Appointment of Secretary for Native Affairs and Native Commissioners.

79.—(1) The Administrator shall appoint an officer to be called the Secretary for Native Affairs and officers to be called Native Commissioners, and, if occasion requires, Assistant Native Commissioners, and may from time to time with the approval of the High Commissioner subject to confirmation by a Secretary of State, prescribe by notice in the Gazette the powers, duties, salaries, and districts to be assigned to such officers.

Salaries, suspension and removal.

(2) The provisions of this Order with respect to the appointment, salaries, suspension, and removal

of Magistrates shall apply to the appointment, salaries, suspension, and removal of the Secretary for Native Affairs, Native Commissioners, and Assistant Native Commissioners, and any other persons employed in the administration of native affairs, and the High Commissioner and a Secretary of State shall have and exercise the like powers with respect to these officers as under this Order are exercisable by them in the case of Magistrates.

Jurisdiction.

(3) It shall be lawful for the High Commissioner by Proclamation to confer upon any Native Commissioner or Assistant Native Commissioner such jurisdiction, not exceeding that exercisable by Magistrates, as may from time to time appear to him to be expedient.

Disabilities of natives.

80. No conditions, disabilities, or restrictions shall, without the previous consent of a Secretary of State, be imposed upon natives by Ordinance which do not equally apply to persons of European descent, save in respect of the supply of arms, ammunition, and liquor.

Assignment of land to natives.

81. The Company shall from time to time assign to the natives inhabiting Southern Rhodesia land sufficient for their occupation, whether as tribes or portions of tribes, and suitable for their agricultural and pastoral requirements, including in all cases a fair and equitable proportion of springs or permanent water.

Questions as to settlement of natives.

82. All questions relating to the settlement of natives on the lands within Southern Rhodesia shall be dealt with and decided by the Administrator in Executive Council, but all such decisions shall be subject to review by the High Commissioner.

Natives may possess individual titles to land.

83. A native may acquire, hold, encumber, and dispose of land on the same conditions as a person who is not a native, but no contract for encumbering or alienating land the property of a native shall be valid unless

the contract is made in the presence of a Magistrate, is attested by him, and bears a certificate signed by him stating that the consideration for the contract is fair and reasonable, and that he has satisfied himself that the native understands the transaction.

Company to retain mineral rights in lands occupied by natives.

84. The Company shall retain the mineral rights in all land assigned to natives. If the Company should require any such land for the purpose of mineral development or as sites of townships, or for railways or other public works, the Administrator in Executive Council, by direction of the Company and upon good and sufficient cause shown, may, with the approval of the High Commissioner, order the natives to remove from such land or any portion thereof, and shall assign to them just and liberal compensation in land elsewhere, situate in as convenient a position as possible, sufficient and suitable for their agricultural and pastoral requirements, containing a fair and equitable proportion of springs or permanent water, and, as far as possible, equally suitable for their requirements in all respects as the land from which they are ordered to remove.

Removal of natives.

85.—(1) No natives shall be removed from any kraal or from any land assigned to them for occupation, except after full inquiry by, and by order of, the Administrator in Executive Council approved by the High Commissioner.

Penalty for removing natives.

(2) If any person without such order removes or attempts to remove any native from any kraal or from any land unless in execution of the process of a competent court, he shall, in addition to any other proceedings to which he is liable, be guilty of an offence against this Order, and on conviction before the High Court shall be liable to imprisonment with or without hard labour for any period not exceeding two years, or to a fine

not exceeding one hundred pounds sterling, or to both.

Reference of cases concerning natives to Judge.

86. The High Commissioner may, if he thinks fit, refer any question relating to natives for report to any Judge of the High Court, and the Judge shall thereupon make such inquiry as he thinks fit, and shall report to the High Commissioner the result of such inquiry. The High Commissioner may act with reference to any such report as he thinks fit.

Subordinate tribunal.

87.—(1) The Administrator in Executive Council shall, when so required by the High Commissioner, appoint in any magisterial district a subordinate tribunal, to consist of the Magistrate of the district and two assessors from time to time selected by a Judge of the High Court upon the request of the High Commissioner.

Reports by.

(2) Such tribunal shall report or make recommendations to the High Commissioner upon all questions relating to natives referred to it by or by the direction of the High Commissioner, or by any judge to whom any question relating to natives has been referred by the High Commissioner. The High Commissioner may deal with any such reports or recommendations as he thinks fit.

Fines for revolt or other misconduct by natives.

88. In case of a revolt against the Company, or other misconduct committed by a native chief or tribe, the Administrator in Executive Council may impose a reasonable fine upon the offender. The Administrator shall forthwith report every such case to the High Commissioner, who may remit the fine in whole or in part; the Administrator shall give effect to any such remission.

Review of cases concerning natives by Secretary of State.

89.—(1) The High Commissioner shall transmit to a Secretary of State a report upon every case relating to natives dealt with by him under Part V. of this Order, together with copies of all reports and recommendations and all documents relating

to such case, and a Secretary of State may review any case and reverse or modify any decision given or order made therein, and may give such directions in the matter as he thinks fit, and due effect shall be given to such directions by all persons.

(2) Provided that such directions shall only be binding where a Secretary of State has within twelve months after receiving the report of the High Commissioner given notice to the High Commissioner that he intends to review any such case.

Part VI.—Miscellaneous.

90. [Provisional appointments where the approval of a Secretary of State is required.]

91. The Matabeleland Order in Council, 1894, shall continue in force until the commencement of this Order and shall thereupon be revoked, but without prejudice to anything lawfully done thereunder. Revocation of Matabeleland Order in Council, 1894.

92. Judicial notice shall be taken of this Order and of the commencement thereof, and of any Ordinance made under this Order and published in the Gazette. Judicial notice.

93. This Order shall be published in the Gazette and shall thereupon commence and come into operation; and the High Commissioner shall give directions for the publication of this Order at such places, and in such manner, and for such time or times, as he thinks proper for giving due publicity thereto. Commencement and publication.

94. Her Majesty may from time to time revoke, alter, add to, or amend this Order. Revocation and alteration.

A. W. Fitzroy.

XL. Extracts from Speech of the Right Hon. Cecil Rhodes concerning the Work of Imperial Expansion and South African Union, Cape Town, 18 July, 1899.

[Vindex, "Cecil Rhodes, His Political Life and Speeches." pp. 639-647.]

Sir, my people have changed. I speak of the English people, with their marvellous common sense, coupled with their powers of imagination—all thoughts of a Little England are over. They are tumbling over each other, Liberals and Conservatives, to show which side are the greatest and most enthusiastic Imperialists. . . . The people have found out that England is small, and her trade is large, and they have also found out that other people are taking their share of the world, and enforcing hostile tariffs. The people of England are finding out that "trade follows the flag," and they have all become Imperialists. They are not going to part with any territory. And the bygone ideas of nebulous republics are over. The English people intend to retain every inch of land they have got, and perhaps, sir, they intend to secure a few more inches. And so the thought of my country has changed. When I began this business of annexation, both sides were most timid. They would ask one to stop at Kimberley, then they asked one to stop at Khama's country. I remember Lord Salisbury's Chief Secretary imploring me to stop at the Zambesi. Mr. Mayor, excuse me for using the word "I," but unfortunately I have been alone in these efforts. Now, sir, they won't stop anywhere; they have found out that the world is not quite big enough for British trade and the British flag; and that the operation of even conquering the planets is only something which has yet to be known. I have little doubt about the Colonial people, and in saying so,

I cover in the Colonial people the Dutch as well as the English. Notwithstanding my past little temporary difficulty, if we were all to accept equal rights, I feel convinced that we should all be united on the proposition that Africa is not, after all, big enough for us. . . .

. . . Gentlemen, this country is only just beginning, and I consider that I am only just beginning—my public life has only just begun.

I have pointed out to you that we have the money, and we have a plan arranged, and the right to go to Egypt. I think that will take from seven to eight years of one's life. Can you expect more? What we have to guard against—and I see a representative here from Port Elizabeth—is that with development we do not lose the idea of union. As we take new States, we must not have the North going from us to fresh ports and fresh outlets. We must try, if possible, to keep the continent together. It is perfectly possible. I must not touch on politics to-night, but if we could only get a united feeling, Africa would be united to Tanganyika. That is number two we have to work for. I personally have to work for my railway to Egypt, and my telegraph to Egypt, and you have to work with me for that greater object, the union of the country. I have often stated it, but if you were to go up in a balloon, how ridiculous it would appear to you to see all these divided States, divided tariffs, divided peoples; the Almighty made them one, and it is our work also to unite them. I hope that those who are opposed to us on the existence of a temptation in the wealth of the North will pass to the thought of union. I only wish I had a Johannesburg; if only one had a Johannesburg, one could unite the country to-morrow; and in the present trouble, if some of those who have thoughts different from us would think of the great object of union, all

would be right. Then you would have a great commonwealth; then you would have a union of States; then, I think, apart from my mother-country, there would be no place in the world that would compete with it. You have the sheep, the wine, the gold, the diamonds, and the health, and a marvellous climate. There is no place in the world to touch this; there is no place to touch it for the beauty of its climate, and the variety of its products, and yet we stupid human mortals are quarrelling over the equality of rights, instead of thinking of the great country that has been given to us. . . .

You have spoken of getting to Egypt. I say, Yes, that is good. But if I go to Egypt, I want to leave behind me a union of States that shares in that, a union of young men who can give their lives to the development of these unknown countries. They will have their liberty in that union be they of English or be they of Dutch birth. That is what we are aiming at. True, our aim is the development of the Dark Continent, but surely one should have the thought and the desire that this country, of which one thinks so much, the Cape Colony, should have a share in that development. One should think of the development of the Cape Colony in the development of those new territories. Do you think there can be any satisfaction in taking those new territories, knowing they will pass only to others, even to those of my race, those from my own country, England? I would like you to share in that development. And so when you congratulate me on doing this work, when you say, "We wish you well," when you say, "We wish you success," I reply, "Share with me the object and the intent that led to it, and we will make this country unite south of the Zambesi." How are we going to do that? It all lies in the adoption of that simple sentence, that we will have equal rights for every civilised man south of the Zambesi.

XLI. Order in Council providing for the Government of Barotziland-North-Western Rhodesia, 28 November, 1899.

[House of Commons Papers (1905), 130, pp. 24-26.]

At the Court at Windsor,
The 28th day of November, 1899.

Present:

The Queen's Most Excellent Majesty
Lord President
Lord Chamberlain
Earl of Kintore.

Whereas the territories of Africa situated within the limits of this Order, as hereinafter described, are under the protection of Her Majesty the Queen:

And whereas by treaty, grant, usage, sufferance, and other lawful means, Her Majesty has power and jurisdiction in the said territories:

Now, therefore, Her Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890, or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Barotziland-North-Western Rhodesia Order in Council, 1899.

2. [Interpretation of terms employed in this Order.]

3. The limits of this Order are the parts of Africa bounded by the River Zambesi, the German South-West African Protectorate, the Portuguese possessions, the Congo Free State, and the Kafukwe or Loengi River. Such limits further include so much of any territory belonging to the Bashukolumbwe tribe as may lie east of the Kafukwe or Loengi River. The territory within the limits of this Order shall be known as Barotziland-North-Western Rhodesia.

4.—(1) A Secretary of State may from time to time by notice published in the Gazette, and in the London Gazette, declare that any parts of Africa north of the River Zambesi, and under the protection of Her Majesty, shall be included within the limits of this Order, and from the date of such publication in the Gazette this Order shall apply to the parts named therein.

(2) A Secretary of State may from time to time by the like notice declare that any part of Africa for the time being within the limits of this Order shall, until otherwise directed, be excepted from the application of this Order; and from the date of the publication of such notice in the Gazette, the part named therein shall be excluded from the limits of this Order.

5. The High Commissioner may on Her Majesty's behalf exercise all powers and jurisdiction which Her Majesty, at any time before or after the date of this Order, had or may have within the limits of this Order, and to that end may take or cause to be taken all such measures, and may do or cause to be done all such matters and things within the limits of this Order as are lawful, and as in the interest of Her Majesty's Service he may think expedient, subject to such instructions as he may from time to time receive from Her Majesty or through a Secretary of State.

6. The High Commissioner may appoint an Administrator for Barotziland-North-Western Rhodesia, and so many Judges, Magistrates, or other officers as he may from time to time think necessary for the administration of the affairs of Barotziland-North-Western Rhodesia, and may define from time to time the districts within which such officers shall respectively discharge their functions.

Every such Administrator or other officer may exercise

such powers and authorities as the High Commissioner may assign to him subject, nevertheless to such directions and instructions as the High Commissioner may from time to time think fit to give him. The appointment of such officer shall not abridge, alter, or affect the right of the High Commissioner to execute and discharge all the powers and authorities hereby conferred upon him.

The High Commissioner may either, of his own motion or at the request of the Company, suspend or remove any Administrator or other officer so appointed.

7. Whenever the appointment of an Administrator, Judge, Magistrate or other officer is necessary the Company shall nominate to the High Commissioner a fit and proper person for the office. If the High Commissioner does not approve of such person he shall so inform the Company, and the Company shall thereupon nominate another person and so on as often as occasion shall require, but if the Company has not within six months from the date of the occurrence of a vacancy or in the case of a new office from the time when the High Commissioner shall have notified to the Company his intention to appoint a person to such office nominated some person whom the High Commissioner approves, the High Commissioner may appoint a person who has not been so nominated.

8. In the exercise of the powers and authorities hereby conferred upon him, the High Commissioner may, amongst other things, from time to time by Proclamation provide for the Administration of Justice, the raising of Revenue by the imposition of taxes (which may include a tax in respect of the occupation of native huts) and Customs duties or otherwise, and generally for the peace, order, and good government of all persons within the limits of this Order, including the prohibition and punishment of acts tending to disturb the public peace.

Provided that the High Commissioner before issuing any such Proclamation shall, whenever possible, have regard to any suggestions or requests made to him in respect thereof by the British South Africa Company.

Provided further that no Proclamation concerning the raising or appropriation of revenue shall be made unless the assent of the Company has previously been given thereto. Such assent may be signified by telegraph.

9. The High Commissioner in issuing such proclamations shall respect any native laws or customs by which the civil relations of any native chiefs, tribes, or populations under Her Majesty's protection are now regulated, except so far as the same may be incompatible with the due exercise of Her Majesty's power and jurisdiction.

10. Every Proclamation of the High Commissioner shall be published in the Gazette, and shall, from and after a date to be mentioned in such Proclamation, and thereafter until disallowed by Her Majesty or repealed or modified by any subsequent Proclamation, have effect as if contained in this Order.

11. Her Majesty may disallow any such Proclamation wholly or in part, and may signify such disallowance through a Secretary of State, and upon such disallowance being publicly notified by the High Commissioner in the Gazette the provisions so disallowed shall from and after a date to be mentioned in such notification, cease to have effect, but without prejudice to anything theretofore lawfully done thereunder.

12. Subject to any Proclamation made under this Order any jurisdiction exercisable otherwise than under this Order, whether by virtue of any Statute or Order in Council, or of any Treaty, or otherwise, and whether exercisable by Her Majesty, or by any person on Her behalf, or by any Colonial or other Court, or under any Commission, or under any Charter granted by Her Majesty, shall remain in full force.

13. Such estimates of the expenses of the administration of Barotziland-North-Western Rhodesia as may from time to time be necessary shall be submitted to the Company for approval and, after the approval of any such estimates by the Company, if in any year the revenue raised and in pursuance of the provisions of this Order shall be insufficient to provide for the payment of the expenses of the administration, the Company shall make good the deficiency, and if in any year the said revenue is more than sufficient to provide for the payment of the said expenses, the surplus remaining after the payment of such expenses shall be paid to and become the property of the Company.

14. The Administrator shall be accountable to the Company for all revenue raised in pursuance of the provisions of this Order, and for all expenditure for the purposes of the administration of Barotziland-North-Western Rhodesia, in such manner and subject to such instructions or rules as may from time to time be prescribed by the High Commissioner at the request of the Company.

15. No Customs duties levied on any articles produced or manufactured in any part of Her Majesty's dominions or in any British Protectorate, and imported into Barotziland-North-Western Rhodesia, shall exceed in amount the duties levied on such articles according to the tariff in force in the South African Customs Union, at the date of the coming into operation of the Southern Rhodesia Order in Council, 1898, or the tariff contained in the Customs Union Convention, concluded between the Colony of the Cape of Good Hope, the Orange Free State, and the Colony of Natal, in May, 1898, whichever are the higher.

16. Subject to the provisions of this Order and of any other Order in Council for the time being in force, and to the provisions of any Proclamation made under the

provisions of any such Order as aforesaid, so much of the law of England for the time being, as is applicable to local circumstances, shall apply to and be in force within Barotziland-North-Western Rhodesia, subject to such qualifications as local circumstances render necessary.

17. Judicial notice shall be taken of this Order and of the commencement thereof, and of any Proclamation made under this Order and published in the Gazette.

18. [Publication of this Order.][1]

19. Her Majesty may from time to time revoke, alter, add to, or amend this Order.

A. W. Fitzroy.

XLII. Commission appointing Sir Alfred Milner to be High Commissioner for South Africa, 6 October, 1900.

[House of Commons Papers (1905), 130, pp. 3-5.]

SOUTH AFRICA.

Commission passed under the Royal Sign Manual and Signet, appointing Sir Alfred Milner, G.C.M.G., K.C.B., to be High Commissioner for South Africa.[2]

Victoria R.

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, Empress of India: To Our Trusty and Well-beloved Sir Alfred Milner, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Knight Commander of Our Most Honourable Order of the Bath, Greeting.

Recites Commission of 20th August, 1889, appointing the Governor for the time being of the Cape of Good Hope to be High Commissioner.

Whereas by Our Commission under Our Sign Manual and Signet, bearing date at Osborne House, Isle of

[1] [This Article was somewhat amplified by a further Order in Council of 16 December, 1902.]

[2] The despatch forwarding this Commission is printed at p. 3 of Cd. 547.

Wight, the Twentieth day of August, 1889, We did appoint the Governor for the time being of Our Colony of the Cape of Good Hope with its territories and dependencies or the Officer for the time being administering the Government thereof to be during Our pleasure Our High Commissioner for South Africa:

Recites Order in Council of 2nd February, 1884, resuming direct authority over Basutoland.

And whereas We did, by Our Order in Our Privy Council bearing date the Second day of February, 1884, resume direct authority over Our Territory of Basutoland, and did appoint the person for the time being exercising the functions of Our High Commissioner for South Africa, to exercise in Our name and on Our behalf all legislative and executive authority in and over Our said Territory:

And whereas by treaty, grant, usage, sufferance and other lawful means We have exercised and do exercise jurisdiction in the Bechuanaland Protectorate, Southern Rhodesia, and Barotziland-North-Western Rhodesia:

Recites certain other Orders in Council.

And whereas by Orders in Our Privy Council bearing date the Ninth day of May, 1891, and the Thirtieth day of July, 1891, and by certain other Orders in Our Privy Council known respectively as the Southern Rhodesia Order in Council, 1898, the Southern Rhodesia (Military Forces) Order in Council, 1900, and the Barotziland-North-Western Rhodesia Order in Council, 1899, We did confer upon Our said High Commissioner for the time being such jurisdiction, powers, and authorities as are in the said Orders in Our Privy Council respectively set forth:

And whereas We are now minded to make other provision for the due execution of the duties of Our said High Commissioner in the conduct of Our affairs in South Africa:

Appointment of Sir Alfred Milner, G.C.M.G., K.C.B., to be High Commissioner.

Now therefore We do, by this Our Commission under Our Sign Manual and Signet, appoint you, the said Sir Alfred Milner, to be during Our pleasure Our High

Commissioner for South Africa, and as such High Commissioner to act in Our name and on Our behalf, and in all respects to represent Our Crown and authority in matters occurring in South Africa beyond the limits of Our Colonies of the Cape of Good Hope and Natal, and beyond the limits of any other place or territory in South Africa in and over which We may from time to time have appointed a Governor.

Powers and duties of High Commissioner.

II. And We do hereby authorise, empower, and command you to exercise in Our name and on Our behalf all jurisdiction, power, and authority in regard to Basutoland, the Bechuanaland Protectorate, Southern Rhodesia, and Barotziland-North-Western Rhodesia, which are vested in Our said High Commissioner by Our aforesaid Orders in Our Privy Council.

High Commissioner empowered to transact all lawful business with the Representative of any Foreign Power in South Africa.

III. And We do hereby authorise, empower, and command you, as such Our High Commissioner, to transact in Our name and on Our behalf all business which may lawfully be transacted by you with the Representative of any Foreign Power in South Africa, subject nevertheless to such instructions as you may from time to time receive from Us or through one of Our Principal Secretaries of State. And We do require you, by all proper means, to invite and obtain the co-operation of the Government of any Foreign Power in South Africa towards the preservation of peace and safety in South Africa, and the general welfare and advancement of its territories and peoples.

Dealings with Native Tribes.

IV. And We do hereby authorise, empower, and command you as such Our High Commissioner, in Our name and on Our behalf, to take all such measures, and to do all such things in relation to the Native Tribes in South Africa with which it is expedient that We should have relations, and which are not included within the territory of any Foreign Power, or within any territory for the administration of which We may

from time to time have otherwise provided, as are lawful and appear to you to be advisable for maintaining Our Possessions in peace and safety, and for promoting the peace, order, and good government of the Tribes aforesaid, and for preserving friendly relations with them.

High Commissioner empowered to appoint Deputy, Resident, or Assistant Commissioners.

V. And We do hereby authorise and empower you, by Instruments under your hand and seal, to appoint so many fit persons as in the interest of Our Service you shall think necessary to be your Deputy Commissioners, or to be Resident Commissioners or Assistant Commissioners, and by the same or other Instruments to define the districts within which such officers shall respectively discharge their functions: And We do hereby authorise and empower every such Deputy or Resident or Assistant Commissioner to have and exercise within his district such of the powers and authorities hereby conferred upon you, Our said High Commissioner, as you shall think fit to assign to him by the Instrument appointing him, subject nevertheless to such directions and instructions as you may from time to time think fit to give him. And We do declare that the appointment of such Deputy or Resident or Assistant Commissioners shall not abridge, alter, or affect the right of you, Our said High Commissioner, to execute and discharge all the powers, authorities, and functions of your said office.

Powers and authorities of such Commissioners.

Officers administering the Governments of the various British Colonies and Protectorates in South Africa to be invited to send representatives to confer on subjects of common interest.

VI. And whereas it is desirable that the administrations of our various Colonies and Protectorates in South Africa should act in harmony in regard to subjects of common interest, such as the treatment of natives, the control of armed forces, the traffic in arms and ammunition, and the working of railways, posts, and telegraphs, We do direct you from time to time as may seem to you expedient to invite the Officers administering the Governments of Our said Colonies and Protectorates to send representatives to confer with you as such Our High Commissioner and with each other on the measures to

be taken in regard to any or all of such subjects of common interest.

Supersedes Commission of the 20th August, 1889.

VII. And further We do hereby appoint that, from and after the date of this Our Commission, Our above recited Commission of the Twentieth day of August, 1889, appointing the Governor and Commander-in-Chief for the time being of Our Colony of the Cape of Good Hope, with its territories and dependencies or the Officer for the time being administering the Government thereof to be Our High Commissioner as therein mentioned, shall be hereby superseded.

Officers and others to aid and assist the High Commissioner.

VIII. And We do hereby command all and singular Our Officers and Ministers, Civil and Military, and all the inhabitants of Our Possessions, and all other Our loyal subjects in South Africa, to be aiding and assisting unto you, in execution of this Our Commission.

Given at Our Court at Saint James's this Sixth day of October, 1900, in the Sixty-fourth year of Our Reign.

By Her Majesty's Command,

J. CHAMBERLAIN.

XLIII. *MODUS VIVENDI* ARRANGED BETWEEN THE HIGH COMMISSIONER FOR SOUTH AFRICA AND THE GOVERNOR-GENERAL OF MOZAMBIQUE, 18 December, 1901.

[Parl. Pap., Cd. 3564, pp. 61-63.]

AGREEMENT for a "*Modus Vivendi*" made between His Excellency the High Commissioner for South Africa and His Excellency the Governor-General of Mozambique, December 18th, 1901.

The undersigned, LORD MILNER, His Britannic Majesty's High Commissioner for South Africa, etc., represented by His Britannic Majesty's Consul-General at Lourenço Marques, CAPTAIN F. H. E. CROWE, Royal Navy, and MANOEL RAPHAEL GOR-

JAO, Privy Councillor to His Most Faithful Majesty, THE KING OF PORTUGAL, Brigadier-General, Governor-General of the Province of Mozambique, etc., etc., having recognised that, pending the conclusion of an agreement relative to the Province of Mozambique and the neighbouring British Territories, it is indispensable that the terms of a *modus vivendi* should be established: and in particular that the *status quo ante bellum* should be as far as possible re-established between the Province of Mozambique and the Transvaal, have together arranged the following:—

Article I.—The engagement of native labourers from the Province of Mozambique for the Transvaal and Rhodesia, shall be established from now, and shall be allowed by the Government-General of the said Province while the present *modus vivendi* is in force or until the said *modus vivendi* shall be denounced by one of the parties in conformity with the terms of Article 13.

Article II.—The said engagement of native labourers shall be made in conformity with the procedure set forth in the Provincial Regulation of the Eighteenth of November, One Thousand Eight Hundred and Ninety-Seven, subject to such modifications as may be agreed on between the parties now or hereafter: The collectors of labour to be accepted by both parties and to be subject as regards the collecting of labourers in Portuguese Territory, not only to the laws and regulations in force in the Province of Mozambique, but also to those that may be promulgated in the future. It is understood that the guarantee deposit and licence which the collectors have to pay will not be higher than those set forth in the said Regulation of the Eighteenth of November, One Thousand Eight Hundred and Ninety-Seven.

Article III.—The Curator's Office for natives from

the Province of Mozambique is re-established in Johannesburg in the terms of the Regulation of the Eighteenth of November, One Thousand Eight Hundred and Ninety-Seven, save for the modifications which may be adopted by agreement between the two parties. It is understood that the powers and duties of the Curator are only similar to those of a Consular officer.

The Transvaal Government will give to the Curator every facility and assistance in its power and in particular facilities will be given to ensure as far as possible that the names of all natives immigrating from Portuguese Territory and their places of employment are registered in the Curator's Office.

Article IV.—The combined tariffs and classification of goods on the Lourenço Marques-Ressano Garcia and Ressano Garcia-Johannesburg lines, which were in force before the war, shall be re-established, and shall be in force as long as this *modus vivendi* shall exist, save for the modifications which may be made by agreement between the two parties. It is understood that should the tariffs or classification of goods be modified on the lines from Durban, East London, Port Elizabeth and Cape Town to the Transvaal, during the existence of the *modus vivendi*, the classification and tariffs on the Lourenço Marques-Johannesburg line shall be equally modified in proportion and in such a manner as to preserve the relation which existed between the tariffs prior to the war.

Article V.—Upon the commencement of immigration the civil traffic from the Portuguese frontier into the Transvaal will be allotted such a number of trucks as the Director of the Imperial Military Railways is able to allot to the said civil traffic without prejudice to the indispensable military traffic. It is also understood that the civil traffic above-mentioned will be regulated on the same principles, and in equally favourable

manner, as the civil traffic coming from the Cape and Natal.

Article VI.—For the expenses of fiscalisation, passports, contracts, registration, etc., etc., the Government-General shall receive during the period of the *modus vivendi* for every immigrated native who is passed by a Transvaal Government Official at the border, or at such place as may be agreed on between the parties, the sum of thirteen shillings (13s.). This sum will cover all expenses and no other amount will be charged, with the exception of a fee on re-engagement, as specified in Article 9.

Article VII.—It is agreed that the Government-General of the Province of Mozambique and the Directorate of the Lourenço Marques Railway will grant to the Imperial Military Railways equal treatment, in all respects, and will concede the same privileges as were conceded to the Netherlands Railway Company, with the exception of the military and hospital trains, to which there will be given a special rebate, according to the arrangement made on December the 11th, One Thousand Nine Hundred and One, with the Director of the Imperial Military Railways, which is hereby sanctioned during the continuance of the *modus vivendi*.

Article VIII.—The railway charges for immigrated natives returning to the Portuguese frontier shall be equally favourable with the railway charges made for the conveyance of immigrating natives from the Portuguese frontier into the Transvaal.

Article IX.—The contracts of employment of immigrating natives shall be made in the first place for not more than one year. The Transvaal Government undertakes that natives will be given their discharge at the expiration of the period of contract and that no pressure shall be put on them to renew their contracts. Should a native renew his contract voluntarily at the

end of the year either with the same or with another employer, the Portuguese Authorities shall be entitled to receive a further fee at the rate of sixpence (6d.) per month for the period of the new contract.

Article X.—The provisions of the Treaty of the 11th of December, One Thousand Eight Hundred and Seventy-Five, will be observed by the Transvaal Colony and reciprocally by the Portuguese Authorities.

But notwithstanding anything to the contrary in the aforesaid provisions, alcoholic liquors manufactured in the Province of Mozambique may be subjected on entering the Transvaal to the same duties as, but no greater than, the duties imposed on similar alcoholic liquors manufactured in the Cape Colony and Natal.

Reciprocally, alcoholic liquors manufactured in the Transvaal may be subjected to the same duties on entering the Province of Mozambique.

It is also to be understood that nothing in the above-mentioned Treaty shall be held to prevent the entry of the Transvaal, or of the Province of Mozambique, or of both into the South African Customs Union, should such entry take place during the continuance of the *modus vivendi*.

Article XI.—During the existence of the *modus vivendi*, goods sent in transit from Lourenço Marques on entering the Transvaal shall have equal treatment with, and shall pay no higher Customs duties than, the same class of goods sent in transit from Durban, East London, Port Elizabeth and Cape Town.

Article XII.—The Transvaal Government will use its best endeavours to discourage and prevent the clandestine immigration of natives from Portuguese Territory.

Article XIII.—The present *modus vivendi* shall be in force until the conclusion of a definite Convention. It can, however, be determined by either of the parties

by means of one year's notice. As soon as the *modus vivendi* is denounced by either of the parties, the engagement of natives in the Province of Mozambique will be *ipso facto* suspended.

Done at Lourenço Marques this Eighteenth day of December, in the year of Our Lord One Thousand Nine Hundred and One.

[Signed] Manoel R. Gorjao, G.G.,
Fritz H. E. Crowe,
For and on behalf of His Excellency the
High Commissioner for South Africa.

Additional Article.—Notwithstanding the provisions of Article 10 of the *modus vivendi* of December the 18th, 1901, by which the provisions of the Treaty of the 11th of December, 1875, are continued in force, it is understood that the products of the industry of either Colony or Possession will only be admitted free of duty into the other Colony or Possession, provided the elements or chief constituent parts of such industry are the products of the soil of such Colony or Possession. And it is further understood that the above interpretation of the words "products of the industry" shall hold good for only so long as the provisions of Article 4 of the above-mentioned *modus vivendi* are observed, unless these provisions be altered by virtue of propositions put forward by the Portuguese Government.

Lourenço Marques,
June 15, 1904.

XLIV. Instruments providing for the Government of the Orange River Colony.

(*a*) Letters Patent providing for the Government of the Orange River Colony.

[House of Commons Papers (1905), 130, pp. 27-30.]

Letters Patent passed under the Great Seal of the United Kingdom, constituting the Offices of Governor and Commander-in-Chief and of Lieutenant-Governor of the Orange River Colony, and providing for the Government thereof.

Letters Patent dated 2 August, 1901.[1]

Edward the Seventh, by the Grace of God of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, Emperor of India: To all to whom these Presents shall come Greeting.

Recites Commission to Lord Roberts of Kandahar of 21st May, 1900.

Whereas by a Commission under Her Royal Sign Manual and Signet, bearing date the 21st day of May, 1900, Her late Majesty Queen Victoria did empower Our Right Trusty and Well-beloved Councillor Frederick Sleigh, Baron Roberts of Kandahar, Field-Marshal of Our Forces, Knight of Our Most Illustrious Order of Saint Patrick, Knight Grand Cross of Our Most Honourable Order of the Bath, Knight Grand Commander of Our Most Exalted Order of the Star of India, Knight Grand Commander of Our Most Eminent Order of the Indian Empire, upon whom has been conferred the Decoration of the Victoria Cross, to annex the territories in South Africa theretofore known as the Orange Free State, and to declare that the said territories should thenceforth form part of Her dominions, and did there-

[1] These Letters Patent, though dated 2 August, 1901, were not read and proclaimed until 23 June, 1902. See Nos. 13 and 56 in [Cd. 1163]. The Letters Patent providing for the Government of the Transvaal bear date 2 August, 1901, and are of almost identical purport. These Letters Patent were superseded by fresh Letters Patent bearing date 23 September, 1902 (see below No. XLVI.).

by constitute and appoint the said Frederick Sleigh, Baron Roberts of Kandahar, to be, thereupon, Administrator of the said territories, provisionally and until Her pleasure should be more fully known, and did authorise and empower the said Frederick Sleigh, Baron Roberts of Kandahar, as such Administrator, to take all such measures, and to make and enforce such laws as he might deem necessary for the peace, order, and good Government of the said territories:

Recites Proclamation of Lord Roberts of Kandahar, dated 24th May, 1900.

And whereas in pursuance of the powers and authorities conferred upon him by the said Commission, the said Frederick Sleigh, Baron Roberts of Kandahar did, by Proclamation dated the 24th day of May, 1900, proclaim and make known that from and after the publication of such Proclamation, the territories known as the Orange Free State were annexed to and formed part of Our dominions, and that provisionally and until Our pleasure should be fully declared, the said territories would be administered by him with such powers as aforesaid, and that Her late Majesty was pleased to direct that the new territories should thenceforth be known as the Orange River Colony:

And whereas the said Proclamation was duly published on the 28th day of May, 1900:

And whereas We are minded to make further provision for the Government of Our Orange River Colony:

Now know ye that we do by these Our Letters Patent declare Our Will and Pleasure to be as follows:—

Appointments of Governor and Lieutenant-Governor.

I. There shall be a Governor and Commander-in-Chief and also a Lieutenant-Governor in and over Our Orange River Colony, and appointments to the said Offices shall be made by Commission under Our Sign Manual and Signet.

Limits of Colony.

II. Our Orange River Colony (hereinafter called the Colony) shall, until further provision shall be made for the delimination of the boundaries of Our Colonies and

possessions in South Africa, comprise all places, settlements and territories which formed part of the territories of the Orange Free State at the date when the said territories were annexed to and became part of Our dominions.

Governor's and Lieutenant-Governor's powers and authorities.

III. We do hereby authorise, empower, and command Our said Governor and Commander-in-Chief (hereinafter called the Governor), and Our said Lieutenant-Governor, to do and execute all things that belong to the said Office of Governor and Lieutenant-Governor respectively, according to the tenor of these Our Letters Patent, and of such Commissions as may be issued to them under Our Sign Manual and Signet, and according to such Instructions as may from time to time be given to them respectively under Our Sign Manual and Signet, or by Our Order in Our Privy Council, or by Us through one of Our Principal Secretaries of State, and to such laws as are now or shall hereafter be in force in the Colony.

Publication of Governor's and Lieutenant-Governor's Commission.

IV. Every person appointed to fill the Office of Governor or Lieutenant-Governor shall, with all due solemnity, before entering on any of the duties of his Office, cause the Commission appointing him to be Governor or Lieutenant-Governor to be read and published in the presence of a Judge of the Supreme Court, or, if there be no Judge of the Supreme Court, in the presence of the Senior Military Officer for the time being in command of Our Regular Forces in the Colony, or of such other Our Officers in the Colony, as can conveniently attend, which being done, he shall then and there take before him or them the Oath of Allegiance in the form provided by an Act passed in the Session holden in the Thirty-first and Thirty-second years of the Reign of Her late Majesty, intituled "An Act to amend the Law relating to Promissory Oaths"; and likewise the usual Oath for the due execution of his

Imperial Act, 31 and 32 Vict. c. 72.

Office, and for the due and impartial administration of justice, which oaths the said Judge or the said Senior Military Officer, or some other of Our said Officers then present, is hereby required to administer.

Public Seal.

V. The Lieutenant-Governor shall keep and use the Public Seal of the Colony for sealing all things whatsoever that shall pass the said Seal; provided that until a Public Seal shall be provided, the Private Seal of the Lieutenant-Governor may be used as the Public Seal of the Colony.

Executive Council.

VI. There shall be an Executive Council in and for the Colony, and the said Council shall consist of such persons as We shall direct by any Instructions under Our Sign Manual and Signet, or through one of Our Principal Secretaries of State, and all such persons shall hold their places in the said Council during Our pleasure.

Legislative Council.

VII. There shall be a Legislative Council in and for the Colony, and the said Council shall consist of the Lieutenant-Governor, together with such persons, not being less than two at any time, as We shall direct by any Instructions under Our Sign Manual and Signet, or through one of Our Principal Secretaries of State, and all such persons shall hold their places in the said Council during Our pleasure.

Powers of Legislative Council.

VIII. The persons who shall from time to time compose the said Legislative Council shall have full power and authority, subject always to any conditions, provisoes, and limitations prescribed by any Instructions under Our Sign Manual and Signet, to establish such Ordinances, and to constitute such Courts and Officers, and to make such provisions and regulations for the proceedings in such Courts, and for the administration of justice, as may be necessary for the peace, order, and good government of the Colony.

Disallowance of Ordinances.

IX. We do hereby reserve to Ourselves, Our heirs and successors, full power and authority, and Our and

their undoubted right to disallow any such Ordinances, and to signify such disallowance through one of Our Principal Secretaries of State. Every such disallowance shall take effect from the time when the same shall be promulgated by the Governor, or in his absence by the Lieutenant-Governor, in the Colony.

Powers of Legislation, etc., reserved to the Crown.

We do also reserve to Ourselves, Our heirs and successors, Our and their undoubted right, with the advice of Our or their Privy Council, from time to time to make all such Laws or Ordinances as may appear to Us or them necessary for the peace, order, and good government of the Colony.

South African Constabulary to be under High Commissioner.

X. And We do further direct and declare that the military police force known as the South African Constabulary, or such part thereof as may at any time be within the Colony, shall be and remain under the direct control and authority of Our High Commissioner for South Africa for the time being, and that all officers and members of the said force shall conform to and obey such orders and instructions as they may from time to time receive from Our said High Commissioner, or from any person appointed by him to act on his behalf: Provided that Our said High Commissioner shall exercise the said control and authority according to such Instructions as may from time to time be given to him by Us, through one of Our Principal Secretaries of State.

Lieutenant-Governor and Legislative Council to observe Instructions.

XI. In the making of any Ordinances the Lieutenant-Governor and the said Legislative Council shall conform to and observe all rules, regulations, and directions in that behalf contained in any Instructions under Our Sign Manual and Signet.

Lieutenant-Governor empowered to make grants of lands with consent of the Governor;

XII. The Lieutenant-Governor, with the consent of the Governor, may, in Our name and on Our behalf, make and execute, under the Public Seal, grants and dispositions of any lands within the Colony which may be lawfully granted or disposed of by Us: Provided that

every such grant or disposition be made in conformity, either with some law now or hereafter in force in the Colony, or with some Instructions which may be addressed to the Governor or Lieutenant-Governor under Our Sign Manual and Signet, or through one of Our Principal Secretaries of State.

and to appoint Judge and other officers, with like consent.

XIII. The Lieutenant-Governor, with the consent of the Governor, may constitute and appoint all such Judges, Commissioners, Justices of the Peace, and other necessary Officers as may be lawfully constituted or appointed by Us, all of whom, unless otherwise provided by law, shall hold their offices during Our pleasure.

Suspension of officers.

XIV. The Lieutenant-Governor, with the consent of the Governor, may, upon sufficient cause to him appearing, suspend from the exercise of his office any person holding any office within the Colony, whether appointed by virtue of any Commission or Warrant from Us or in Our name or by any other mode of appointment. Every such suspension shall continue and have effect only until Our pleasure therein shall be signified through the Governor to the Lieutenant-Governor. In proceeding to any such suspension the Governor and the Lieutenant-Governor are strictly to observe the directions in that behalf given to them by any Instructions in that behalf.

Grant of pardon.

XV. When any crime or offence has been committed within the Colony, or for which the offender may be tried therein, the Lieutenant-Governor may, as he shall see occasion, in Our name and on Our behalf, grant a pardon to any accomplice in such crime or offence who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders, if more than one; and further, may grant to any offender convicted in any Court, or before any Judge or other Magistrate, within the Colony, a pardon, either free or subject to lawful conditions, or any remission of the sentence passed on such offender, or any respite of the execution

Remission of fines. Proviso. Banishment prohibited. Exception. Political offences.

of such sentence, for such period as he may think fit, and may remit any fines, penalties, or forfeitures due or accrued to Us. Provided always, that in no case, except where the offence has been of a political nature, shall it be made a condition of any pardon or remission of sentence that the offender shall be banished from or shall absent himself or be removed from the Colony.

Succession to the Government in the event of the death, etc., or absence of the Governor from South Africa.

XVI. In the event of the death, incapacity, removal, or absence from South Africa of Our said Governor, or of his being from any cause prevented from acting in the duties of his office, all and every the powers and authorities herein granted to him shall, until Our further pleasure is signified therein, be vested in the person or persons for the time being administering the Government of Our Colony of the Transvaal; and such person or persons shall have and exercise all and every the powers and authorities herein granted until Our further pleasure shall be signified therein: Provided that no such powers or authorities shall vest in such person or persons until he or they shall have taken the oaths appointed to be taken by the Governor of Our Orange River Colony, and in the manner provided by the Instructions accompanying these Our Letters Patent.

Succession to Government in the event of the death, etc., or absence of the Lieutenant-Governor from the Colony.

XVII. Whenever the office of Lieutenant-Governor is vacant, or if the Lieutenant-Governor become incapable or be absent from the Colony, or is from any cause prevented from acting in the duties of his office, then such person or persons as We may appoint under Our Sign Manual and Signet, and in default of such appointment, the Senior Military Officer for the time being in command of Our Regular forces in the Colony, shall,

Powers and authorities of administrator.

during Our pleasure administer the Government of the Colony as Lieutenant-Governor, first taking the oaths hereinbefore directed to be taken by the Lieutenant-Governor and in the manner herein prescribed, which being done, We do hereby authorise, empower, and

command Our Lieutenant-Governor or any other such Administrator as aforesaid, to do and execute, during Our pleasure, all things that belong to the Office of Lieutenant-Governor according to the tenor of these Our Letters Patent, and according to Our Instructions as aforesaid, and the Laws of the Colony.

Officers and other to obey the Governor and Lieutenant-Governor.

XVIII. And We do hereby require and command all Our Officers and Ministers, Civil and Military, and all other the inhabitants of the Colony, to be obedient, aiding, and assisting unto the Governor and Lieutenant-Governor, and to such person or persons as may from time to time, under the provisions of these Our Letters Patent, administer the Government of the Colony.

Power reserved to His Majesty to revoke, alter, or amend present Letters Patent.

XIX. And we do hereby reserve to Ourselves, Our heirs and successors, full power and authority from time to time to revoke, alter, or amend these Our Letters Patent, as to Us or them shall seem fit.

Proclamation of Letters Patent.

XX. And We do direct and enjoin that these Our Letters Patent shall be read and proclaimed within the Colony.

In witness whereof We have caused these Our Letters to be made Patent. Witness Ourself at Westminster, the Second day of August, in the First Year of Our Reign.

By Warrant under the King's Sign Manual.

MUIR MACKENZIE.

(*b*) Instructions for the Government of the Orange River Colony.

[House of Commons Papers (1905), 130, pp. 30-36.]

Instructions passed under the Royal Sign Manual and Signet to the Governor and Commander-in-Chief and to the Lieutenant-Governor of the Orange River Colony.

Dated 2 August, 1901.[1]

Edward R.

Instructions to Our Governor and Commander-in-Chief in and over Our Orange River Colony or to Our other Officer for the time being administering the Government of Our said Colony, and to Our Lieutenant-Governor of Our said Colony.

Given at Our Court at Saint James's, this Second day of August, 1901, in the First year of Our Reign.

Preamble. Recites Letters Patent of even date.

Whereas by certain Letters Patent under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing even date herewith, We have constituted, ordered, and declared that there shall be a Governor and Commander-in-Chief (therein and hereinafter called the Governor) and also a Lieutenant-Governor in and over Our Orange River Colony (therein and hereinafter called the Colony):

And whereas We have thereby authorised and commanded the Governor and the Lieutenant-Governor, to do and execute all things that belong to their said offices, according to the tenor of Our said Letters Patent, and of such Commissions as may be issued to them under Our Sign Manual and Signet, and according to such Instructions as may from time to time be given to them respectively under Our Sign Manual and Signet, or by

[1] Similar Instructions for the Government of the Transvaal were passed on 2 August, 1901. They were superseded by fresh Instructions bearing date 23 September, 1901. The alterations were comparatively few. (See below, No. XLVI.).

Our Order in Our Privy Council, or through one of Our Principal Secretaries of State, and to such Laws as are now or shall hereafter be in force in the Colony:

And whereas we are minded to issue these Our Instructions under Our Sign Manual and Signet for the guidance of the Governor or other officer administering the Government of the Colony as such Governor, and of the Lieutenant-Governor or other officer administering the Government thereof as Lieutenant-Governor:

Now, therefore, We do hereby direct and enjoin and declare Our Will and pleasure as follows:—

Lieutenant-Governor to administer Oaths.

I. The Lieutenant-Governor may, whenever he thinks fit, require any person in the public service of the Colony to take the Oath of Allegiance in the form prescribed by the Act relating thereto mentioned in Our said Letters Patent, together with such other Oath or Oaths as may from time to time be prescribed by any Laws in force in the Colony. The Lieutenant-Governor is to administer such Oaths, or to cause them to be administered by some Public Officer of the Colony.

Constitution of Executive Council.

II. The Executive Council of the Colony shall consist of the persons for the time being lawfully discharging the functions of Colonial Secretary, of Attorney-General, and of Colonial Treasurer, and such other persons as We may from time to time appoint by any Instruction or Warrant under Our Sign Manual and Signet, or through one of Our Principal Secretaries of State.

Extraordinary Members.

Whenever upon any special occasion the Lieutenant-Governor desires to obtain the advice of any persons within the Colony touching Our affairs therein, he may, with the consent of the Governor, by an Instrument under the Public Seal of the Colony, summon for such special occasion any such persons as Extraordinary Members of the Executive Council.

Precedence.

III. The Members of the Executive Council shall have seniority and precedence as We may specially

assign, and in default thereof, the above-mentioned Officers in the order in which their offices are mentioned, and other Members according to the priority of their respective appointments, or if appointed by the same instrument, according to the order in which they are named therein.

Lieutenant-Governor to communicate Instructions to Executive Council.

IV. The Lieutenant-Governor shall forthwith communicate these Our Instructions to the Executive Council, and likewise all such others, from time to time, as We may direct, or as he shall find convenient for Our service to impart to them.

Executive Council not to proceed to business unless summoned by authority of the Lieutenant-Governor. Quorum.

V. The Executive Council shall not proceed to the despatch of business unless duly summoned by authority of the Lieutenant-Governor, nor unless two Members at the least (exclusive of himself, or the Member presiding) be present and assisting throughout the whole of the meetings at which any such business shall be despatched.

Lieutenant-Governor to preside.

VI. The Lieutenant-Governor shall attend and preside at all meetings of the Executive Council, unless when prevented by illness or other grave cause, and in his absence such Member as the Lieutenant-Governor may appoint, or in the absence of such Member, the Senior Member of the Council actually present shall preside.

Journals or Minutes of Executive Council to be kept.

VII. A full and exact Journal or Minute shall be kept of all the proceedings of the Executive Council; and at each meeting of the Council the Minutes of the last preceding meeting shall be read over and confirmed or amended, as the case may require, before proceeding to the despatch of any other business.

Minutes to be sent home twice a year.

Twice in each year the Lieutenant-Governor shall transmit to the Governor, and the Governor shall transmit to Us, through one of Our Principal Secretaries of State, a full and exact copy of the said Minutes for the preceding half-year.

VIII. In the execution of the powers and authorities granted to the Lieutenant-Governor by Our said Letters Patent, he shall in all cases consult with the Executive Council, excepting only in cases which may be of such a nature that, in his judgment, Our service would sustain material prejudice by consulting the Council thereupon, or when the matters to be decided shall be too unimportant to require their advice, or too urgent to admit of their advice being given by the time within which it may be necessary for him to act in respect of any such matters. In all such urgent cases he shall, as soon as possible, communicate to the Governor and the Executive Council the measures which he may so have adopted, with the reasons thereof.

Lieutenant-Governor to consult Executive Council. Proviso. Urgent cases.

IX. The Lieutenant-Governor alone shall be entitled to submit questions to the Executive Council for their advice or decision; but if the Lieutenant-Governor decline to submit any question to the Council when requested in writing by any Member so to do, it shall be competent to such Member to require that there be recorded upon the Minutes his written application, together with the answer returned by the Lieutenant-Governor to the same. A copy of such Minute shall, at the earliest opportunity, be transmitted by the Lieutenant-Governor to the Governor.

Lieutenant-Governor to propose question. No member to propose a question, but may record application for so doing.

X. The Lieutenant-Governor may act in opposition to the advice given to him by the Members of the Executive Council, if he shall in any case deem it right to do so, but in any such case he shall forthwith fully report the matter to the Governor, with the grounds and reasons of his action, and the Governor shall fully report the matter to Us by the first convenient opportunity. In every such case it shall be competent to any Member of the Council to require that there be recorded at length on the Minutes the grounds of any advice or opinion he may give upon the question.

Lieutenant-Governor may act in opposition to Executive Council. Reporting the grounds for so doing. Members may record on Minutes their adverse opinions.

Constitution of Legislative Council.

XI. The Legislative Council of the Colony shall consist of the Lieutenant-Governor, the persons from time to time lawfully discharging the functions of Colonial Secretary, of Attorney-General, and of Colonial Treasurer, and such other persons as We may from time to time appoint by any Instruction or Warrant under Our Sign Manual and Signet, or through one of Our Principal Secretaries of State.

Extraordinary Member.

XII. Whenever upon any special occasion the Lieutenant-Governor wishes to obtain the advice of any person within the Colony, touching any matters about to be brought before the Legislative Council, he may, with the consent of the Governor, by an Instrument under the Public Seal appoint any such person to be, for such occasion, an Extraordinary Member of the Legislative Council.

Council may transact business notwithstanding vacancies. Quorum.

XIII. The said Legislative Council shall not be disqualified from the transaction of business on account of any vacancies among the Members thereof; but the said Council shall not be competent to act in any case unless (including the Lieutenant-Governor or Member presiding) there be present at and throughout the meetings of the Council three Members at the least.

Precedence of Members.

XIV. The Members of the Legislative Council shall have precedence as We may specially assign, and, in default thereof, the above-mentioned Officers, in the order in which their officers are mentioned; and other Members according to the priority of their respective appointments, or if appointed by the same Instrument, according to the order in which they are named therein.

Lieutenant-Governor to preside in Council, or in his absence the senior Member.

XV. The Lieutenant-Governor shall attend and preside at all meetings of the Legislative Council, unless when prevented by illness or other grave cause, and in his absence that Member shall preside who is first in precedence of those present.

Questions to be decided by a majority. Lieutenant-Governor or Member presiding to have an original and casting vote.

XVI. All questions proposed for debate in the Legislative Council shall be decided by the majority of votes, and the Lieutenant-Governor or the Member presiding shall have an original vote in common with the other Members of the Council, as also a casting vote, if upon any question the votes shall be equal.

Rules and Orders to be made for insuring punctuality of attendance.

XVII. The Lieutenant-Governor shall, with the consent of the Governor, frame and propose to the Legislative Council from time to time for their adoption such standing rules and orders as may be necessary to ensure punctuality of attendance of the Members of the Council, and to prevent meetings of the Council being holden without convenient notice to the several Members thereof, and to maintain order and method in the despatch of business, and in the conduct of debates in the Council, and to secure due deliberation in the passing of Ordinances, and to provide that before the passing of any Ordinance intended to affect the interests of private persons due notice of the same is given to all persons concerned therein.

All such Rules and Orders, not being repugnant to Our said Letters Patent, or these or any other Our Instructions, shall at all times be followed and observed, and shall be binding upon the said Council, unless the same or any of them shall be disallowed by Us.

Questions, etc., for debate.

XVIII. It shall be competent for any Member of the Legislative Council to propose any question for debate therein; and such question, if seconded by any other Member, shall be debated and disposed of according to the standing Rules and Orders. Provided always, that every Ordinance, vote, resolution, or question, the object or effect of which may be to dispose of or charge, or to revoke or vary any disposition of or charge upon any part of Our revenue arising within the Colony, shall be proposed by the Lieutenant-Governor, with the consent

of the Governor, unless the proposal of the same shall have been expressly allowed or directed by the Lieutenant-Governor with such consent as aforesaid.

Rules and Regulations under which Ordinances are to be enacted.

XIX. In the making of Ordinances, the following Rules shall, so far as practicable, be observed :—

Form of enacting Ordinances.

1. All Laws shall be styled "Ordinances," and the enacting words shall be "enacted by the Lieutenant-Governor of the Orange River Colony, with the advice and consent of the Legislative Council thereof."

Ordinances to be numbered and methodically arranged.

2. All Ordinances shall be distinguished by titles, and shall be divided into successive clauses or paragraphs, consecutively numbered, and to every such clause there shall be annexed in the margin a short summary of its contents. The ordinances of each year shall be distinguished by consecutive numbers, commencing in each year with the number one.

Different subjects not to be mixed in same Ordinance.

No clause to be introduced foreign to what title of Ordinance imports.

Temporary Ordinances.

3. Each different matter shall be provided for by a different Ordinance, without intermixing into one and the same Ordinance such things as have no proper relation to each other; and no clause is to be inserted in or annexed to any Ordinance which shall be foreign to what the title of such Ordinance imports; and no perpetual clause shall be part of any temporary Ordinance.

Lieutenant-Governor to send drafts of Ordinances to Governor.

XX. Before any Ordinance is introduced into the Legislative Council a fair draft thereof shall be transmitted to the Governor by the Lieutenant-Governor.

Description of Ordinances not to be assented to.

XXI. No Ordinance shall take effect until assented to in Our name by the Governor, and the Governor shall not assent in Our name to any Ordinance of any of the following classes, namely :—

1. Any Ordinance for the divorce of persons joined together in holy matrimony;

2. Any Ordinance whereby any grant of land or money,

or other donation or gratuity, may be made to himself;

3. Any Ordinance whereby any increase or diminution may be made in the number, salary, or allowance of the public officers;
4. Any Ordinance affecting the currency of the Colony or relating to the issue of Bank notes;
5. Any Ordinance establishing any Banking Association, or amending or altering the constitution, powers, or privileges of any Banking Association;
6. Any Ordinance imposing differential duties;
7. Any Ordinance the provisions of which shall appear inconsistent with obligations imposed upon Us by Treaty;
8. Any Ordinance interfering with the discipline or control of our Forces by land or sea;
9. Any Ordinance of an extraordinary nature and importance, whereby Our prerogative or the rights and property of Our subjects not residing in the Colony, or the trade and shipping of Our United Kingdom and its Dependencies, may be prejudiced;
10. Any Ordinance whereby persons not of European birth or descent may be subjected or made liable to any disabilities or restrictions to which persons of European birth or descent are not also subjected or made liable;
11. Any Ordinance containing provisions to which Our assent has been once refused, or which have been disallowed by Us.

Proviso in case of emergency for immediate operation of an Ordinance.

Unless in the case of any such Ordinance as aforesaid he shall have previously obtained Our Instructions upon such Ordinance through one of Our Principal Secretaries of State, or unless such Ordinance shall contain a clause suspending the operation of such Ordinance until the

signification of Our pleasure thereupon, or unless the Governor shall have satisfied himself that an urgent necessity exists requiring that such Ordinance be brought into immediate operation, in which case he is authorised to assent in Our name to such Ordinance, unless the same shall be repugnant to the Law of England, or inconsistent with any obligations imposed upon Us by Treaty. But he is to transmit to Us, by the earliest opportunity, the Ordinance so assented to, together with his reasons for assenting thereto.

Private Ordinances.

XXII. No private Ordinance shall be passed whereby the property of any private person may be affected in which there is not a saving of the rights of Us, Our heirs and successors, and of all bodies, politic and corporate, and of all other persons except such as are mentioned in the said Ordinance, and those claiming by, from, and under them. The Lieutenant-Governor shall in case of every such private Ordinance satisfy himself that adequate and timely notification, by public advertisement or otherwise, was made of the parties' intention to apply for such Ordinance before the same was brought into the Legislative Council; and a certificate under his hand shall be annexed to every such ordinance and transmitted therewith to the Governor signifying that such notification has been given and declaring the manner of giving the same. The Governor shall not assent in Our name to any such private Ordinance, unless he has received such certificate from the Lieutenant-Governor.

Ordinances to be sent home duly authenticated.

XXIII. When any Ordinance shall have been passed in the Legislative Council, the Lieutenant-Governor shall transmit to the Governor for his assent, and subject thereto for transmission to Us, through one of Our Principal Secretaries of State, for Our final approval, disallowance, or other direction thereupon, six full and exact copies of the same, and of the marginal summary

thereof, duly authenticated under the Public Seal of the Colony, and by his own signature. Such copies shall be accompanied by such explanatory observations as may be required to exhibit the reasons and occasion for passing such Ordinance. If the Governor assents to an Ordinance he shall record his assent on each of the six copies, and of the said copies two shall be forthwith returned by him to the Lieutenant-Governor, two shall be retained by the Governor, and two shall be transmitted to Us as aforesaid.

Collection of Ordinances to be published every year.

XXIV. At the earliest practicable period at the commencement of each year, the Lieutenant-Governor shall cause a complete collection to be published, for general information, of all Ordinances enacted during the preceding year, and shall transmit two copies thereof to the Governor, one of which shall be by him transmitted to Us, through one of Our Principal Secretaries of State.

Minutes of proceedings to be kept.

XXV. Minutes shall be regularly kept of all the proceedings of the Legislative Council, and at each meeting of the said Council the Minutes of the last preceding meeting shall be read over, and confirmed or amended, as the case may require, before proceeding to the despatch of any other business.

Minutes to be sent home twice a year.

Twice in each year the Lieutenant-Governor shall transmit to the Governor, and the Governor shall transmit to Us, through one of Our Principal Secretaries of State, a full and exact copy of the said Minutes for the preceding half-year.

Reservations to be made before waste lands are disposed of. Governor and Lieutenant-Governor not to purchase lands.

XXVI. Before disposing of any vacant or waste lands to Us belonging, the Lieutenant-Governor shall transmit to the Governor a report specifying the reservations to be made thereout which he may think necessary for roads or other public purposes, and the Governor shall signify his decision thereon to the Lieutenant-Governor, who shall conform to the Governor's directions in

respect thereof. Neither the Governor nor the Lieutenant-Governor shall, directly or indirectly, purchase for himself any of such lands without Our special permission given through one of our Principal Secretaries of State.

Appointments to be provisional and during pleasure.

XXVII. All Commissions to be granted by the Lieutenant-Governor, to any person or persons for exercising any office or employment shall require the consent of the Governor and shall, unless otherwise provided by law, be granted during pleasure only; and whenever the Lieutenant-Governor shall with such consent as aforesaid appoint to any vacant office or employment any person not by Us specially directed to be appointed thereto, he shall, at the same time, expressly apprise such person that such appointment is to be considered only as temporary and provisional until Our allowance or disallowance thereof be signified.

Suspension of Officers.

XXVIII. Before suspending from the exercise of his office any public Officer who has been appointed by virtue of a Commission or Warrant from Us or in Our name, or whose emoluments exceed 200*l.* a year, the Lieutenant-Governor shall signify to such Officer by a statement in writing, the grounds of the intended suspension, and shall call upon him to state in writing, the grounds upon which he desires to exculpate himself. The Lieutenant-Governor shall lay both statements before the Executive Council, and, having consulted them thereon, shall cause to be recorded on the Minutes whether the Council or the majority thereof does or does not assent to the suspension; and the Lieutenant-Governor may thereupon if he think fit proceed to such suspension. Provided that in any case the Lieutenant-Governor shall transmit both of the said statements, together with the Minutes of the Executive Council, to the Governor by the earliest opportunity for his consent thereto. The Governor shall in like manner transmit to Us any statements relating to the suspension of any

public Officer by the Lieutenant-Governor which he may have received from the Lieutenant-Governor. But if in any case relating to the suspension of a public Officer, the interests of Our service shall appear to the Lieutenant-Governor to demand that a person shall cease to exercise the powers and functions of his office instantly, or before there shall be time to take the proceedings hereinbefore directed, he shall then interdict such person from the exercise of the powers and functions of his office, until the decision of the Governor in the matter be signified.

Governor and Lieutenant-Governor to promote religion and education amongst the Natives. Protection of their persons and property.

XXIX. The Governor and the Lieutenant-Governor are, to the utmost of their power, to promote religion and education among the native inhabitants of the Colony, and they are especially to take care to protect such native inhabitants in their persons and in the free enjoyment of their possessions, and by all lawful means to prevent and restrain all violence and injustice which may in any manner be practised or attempted against them.

Regulation of power of pardon in capital cases. Judge's reports to be laid before Executive Council. Lieutenant-Governor to take advice of Executive Council in such cases.

XXX. Whenever any offender shall have been condemned to suffer death by the sentence of any Court in the Colony, the Lieutenant-Governor shall call upon the Judge who presided at the trial to make him a written report of the case of such offender, and shall cause such report to be taken into consideration at the first meeting thereafter which may be conveniently held of the Executive Council, and he may cause the said Judge to be specially summoned to attend at such meeting and to produce his notes thereat. The Lieutenant-Governor shall not propose to the Governor to pardon or reprieve any such offender unless it shall appear to him expedient so to do upon receiving the advice of the Executive Council thereon. Provided that he shall enter on the Minutes of the Executive Council, a Minute of his reasons at length, in case he

should upon any such question differ from the opinion of the majority of the Members thereof. The Lieutenant-Governor shall in every such case forthwith transmit a copy of such Minutes to the Governor for his decision thereon, which may be signified by telegraph.

Blue Book.

XXXI. And whereas the Lieutenant-Governor will receive from one of Our Principal Secretaries of State, through the Governor, a Book of Tables in blank (commonly called the "Blue Book") to be annually filled up with certain Returns relative to the revenue and expenditure, defence, public works, legislation, civil establishments, pensions, population, schools, course of exchange, imports and exports, agricultural produce, manufactures, and other matters in the said "Blue Book" more particularly specified with reference to the State and condition of the Colony: Now We do direct and enjoin that all such Returns be accurately prepared, and punctually transmitted by the Lieutenant-Governor to the Governor from year to year, to be by him transmitted in like manner to Us.

Lieutenant-Governor to obey directions of Governor in matters not otherwise provided for by instructions.

XXXII. The Lieutenant-Governor shall, in all matters not otherwise provided for by these or any other Our Instructions, conform to and obey all such lawful directions as the Governor may at any time address to him, and shall refer to him from time to time on all matters of importance arising within the Colony.

Lieutenant-Governor's absence.

XXXIII. The Lieutenant-Governor shall not upon any pretence whatever quit the Colony without having first obtained leave for so doing from the Governor and from Us under Our Sign Manual and Signet, or through one of Our Principal Secretaries of State.

Terms "Governor" and "Lieutenant Governor" explained.

XXXIV. In these Our Instructions the terms "the Governor" and "the Lieutenant-Governor" shall, unless inconsistent with the context, include every person for the time being administering the Government of the

Colony as Governor and as Lieutenant-Governor respectively.

E. R.

(*c*) Commission appointing the Right Hon. Lord Milner to be Governor of the Orange River Colony.

[House of Commons Papers (1905), 130, pp. 36-37.]

Commission passed under the Royal Sign Manual and Signet, appointing the Right Honourable Lord Milner, P.C., G.C.B., G.C.M.G., to be Governor and Commander-in-Chief of the Orange River Colony.

Dated 7 August, 1901.[1]

Edward R.

Edward the Seventh, by the Grace of God of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, Emperor of India; To Our Right Trusty and well-beloved Councillor, Alfred, Baron Milner, Knight Grand Cross of Our Most Honourable Order of the Bath, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Greeting.

Appointment of the Right Honourable Lord Milner, P.C., G.C.B., G.C.M.G., to be Governor.

We do, by this our Commission under Our Sign Manual and Signet, appoint you, the said Alfred, Baron Milner, to be during our pleasure Our Governor and Commander-in-Chief in and over Our Orange River Colony, with all the powers, rights, privileges, and advantages to the said Office belonging or appertaining.

His duties and powers under Letters Patent, dated 2nd August, 1901, constituting the Office of Governor, etc.

II. And We do hereby authorise, empower, and command you to exercise and perform all and singular the powers and directions contained in certain Letters

[1] A Commission in almost identical terms was issued on the same date appointing Lord Milner to be Governor "in and over Our Colony of the Transvaal."

Patent under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing date at Westminster the Second day of August, 1901, constituting the said Office of Governor and Commander-in-Chief in and over Our Orange River Colony, or in any other Letters Patent adding to, amending, or substituted for the same, according to such Orders and Instructions as you may receive from Us.

Commissions of 21st May and 8th October, 1900, superseded.

III. And We do hereby appoint that so soon as you shall have taken the prescribed oaths, and have entered upon the duties of your Office, this Our present Commission shall supersede the Commission under the Sign Manual and Signet of Her late Majesty Queen Victoria, bearing date the Twenty-first day of May, 1900, appointing Our Right Trusty and well-beloved Councillor Frederick Sleigh, Baron Roberts of Kandahar to be provisionally, and until Her pleasure was more fully known, Administrator of the Territories theretofore known as the Orange Free State and now known as the Orange River Colony, and shall also, in so far as the Administration of the Government of the Orange River Colony is concerned, supersede the further Commission under the Sign Manual and Signet of Her late Majesty Queen Victoria, bearing date the Eighth day of October 1900, appointing Our High Commissioner for South Africa for the time being to be Administrator of the Orange River Colony and the Transvaal in the event of the death, incapacity, removal, or absence from South Africa of the said Frederick Sleigh, Baron Roberts of Kandahar, and until other provisions should be made for such Administration.

Officers, etc., to obey the Governor.

IV. And We do hereby command all and singular Our Officers, Ministers, and loving subjects in Our said Colony, and all others whom it may concern, to take due notice hereof, and to give their ready obedience accordingly.

Given at Our Court at Saint James's, this Seventh day of August, 1901, in the First year of Our Reign.

By His Majesty's Command,

J. CHAMBERLAIN.

XLV. THE TREATY OF PEACE CONCLUDED AT VEREENIGING, 31 May, 1902.

[Parl. Pap., Cd. 1163, pp. 155-156.]

ARMY HEAD-QUARTERS,
SOUTH AFRICA.

General Lord Kitchener of Khartoum, Commanding-in-Chief, and his Excellency Lord Milner, High Commissioner, on behalf of the British Government, and Messrs. S. W. Burger, F. W. Reitz, Louis Botha, J. H. De la Rey, L. J. Meyer, and J. C. Krogh, acting as the Government of the South African Republic, and Messrs. C. R. De Wet, W. J. C. Brebner, J. B. M. Hertzog, and C. H. Olivier, acting as the Government of the Orange Free State, on behalf of their respective burghers, desirous to terminate the present hostilities, agree on the following Articles:—

1. The Burgher forces in the field will forthwith lay down their arms, handing over all guns, rifles and munitions of war, in their possession or under their control, and desist from any further resistance to the authority of His Majesty King Edward VII., whom they recognise as their lawful Sovereign.

The manner and details of this surrender will be arranged between Lord Kitchener and Commandant-General Botha, Assistant Commandant-General De la Rey, and Chief Commandant De Wet.

2. Burghers in the field outside the limits of the Transvaal and Orange River Colony, and all prisoners of war at present outside South Africa who are burghers, will, on duly declaring their acceptance of the position of

subjects of His Majesty King Edward VII. be gradually brought back to their homes as soon as transport can be provided and their means of subsistence ensured.

3. The burghers so surrendering or so returning will not be deprived of their personal liberty or their property.

4. No proceedings, civil or criminal, will be taken against any of the burghers so surrendering or so returning for any acts in connection with the prosecution of the war. The benefit of this clause will not extend to certain acts contrary to the usage of war which have been notified by the Commander-in-Chief to the Boer Generals, and which shall be tried by Court-martial immediately after the close of hostilities.

5. The Dutch language will be taught in public schools in the Transvaal and the Orange River Colony where the parents of the children desire it, and will be allowed in courts of law when necessary for the better and more effectual administration of justice.

6. The possession of rifles will be allowed in the Transvaal and Orange River Colony to persons requiring them for their protection, on taking out a licence according to law.

7. Military administration in the Transvaal and Orange River Colony will at the earliest possible date be succeeded by civil government, and, as soon as circumstances permit, representative institutions, leading up to self-government, will be introduced.

8. The question of granting franchises to natives will not be decided until after the introduction of self-government.

9. No special tax will be imposed on landed property in the Transvaal and Orange River Colony to defray the expenses of war.

10. As soon as conditions permit, a Commission, on which the local inhabitants will be represented, will be appointed in each district of the Transvaal and Orange

River Colony, under the presidency of a magistrate or other official, for the purpose of assisting the restoration of the people to their homes and supplying those who, owing to war losses, are unable to provide for themselves, with food, shelter, and the necessary amount of seed, stock, implements, etc., indispensable to the resumption of their normal conditions.

His Majesty's Government will place at the disposal of these Commissions a sum of three million pounds sterling for the above purposes, and will allow all notes, issued under Law No. 1 of 1900, of the Government of the South African Republic, and all receipts given by the Officers in the field of the late Republics or under their orders, to be presented to a Judicial Commission which will be appointed by the Government, and if such notes and receipts are found by this Commission to have been duly issued in return for valuable consideration, they will be received by the first-named Commissions as evidence of war losses suffered by the persons to whom they were originally given. In addition to the above-named free grant of three million pounds, His Majesty's Government will be prepared to make advances as loans for the same purpose, free of interest for two years, and afterwards repayable over a period of years with three per cent. interest. No foreigner or rebel will be entitled to the benefit of this Clause.

Signed at Pretoria this thirty-first day of May in the year of Our Lord one thousand nine hundred and two.

S. W. Burger.	J. C. Krogh.	Kitchener of
F. W. Reitz.	C. R. De Wet.	Khartoum.
Louis Botha.	J. B. M. Hertzog.	Milner.
J. H. De la Rey.	W. J. C. Brebner.	
L. J. Meyer.	C. H. Olivier.	

XLVI. Letters Patent, etc., providing for the Government of the Transvaal, 23 September, 1902.

[House of Commons Papers (1905), 130, pp. 37-47.]

These instruments exactly follow the form and are almost identical in terms with those for the Orange River Colony (see above No. XLIV.). Only the material points of difference are here reproduced.

Letters Patent.

II. Our Colony of the Transvaal [shall comprise all places which formed part] of the territories of the South African Republic at the date when the said territories were annexed to and became part of Our Dominions.

Provided that the districts known as Vryheid and Utrecht, together with such parts of the district of Wakkerstroom as may be defined and delimited by any Boundary Delimitation Commission heretofore appointed for that purpose shall, from a date to be determined as hereinafter provided [i.e. by proclamation], cease to form part of the Colony.

Instructions.

XII. (cf. XI. in O.R.C.). To the members of the Legislative Council add :—

Commissioner for Native Affairs, Commissioner of Mines.

XXIX. (cf. XXI. in O.R.C.). For 200*l.* read 500*l.*

XXXIV. The Governor shall not upon any pretence whatever quit the Colony, except in discharge of his duties as Governor of any Colony or Territory adjacent to Our said Colony, or for the purposes contemplated in any Commission granted by Us to him as High Commissioner, without having first obtained leave from Us for so doing under Our Sign Manual and Signet, or through one of Our Principal Secretaries of State.

The Governor, when in discharge of any such duties he quits the Colony, shall not be considered absent from

the Colony within the meaning of Our said Letters Patent.

XLVII. Proceedings of the South African Customs Union Conference at Bloemfontein, March, 1903.

[Parl. Pap., C. 1640.]

[There were present His Excellency the High Commissioner (Viscount Milner) and delegates from Cape Colony, Natal, the Orange River Colony, the Transvaal, and Rhodesia. The Acting Director of Customs for Portuguese East Africa was also present. The Secretary was Mr. G. G. Robinson, Asst. Private Secretary to Lord Milner.]

The President's Opening Speech.

It is not my intention to preface the proceedings of the Conference with a long speech, but I think it may be useful to state briefly how the Conference came into existence. The first suggestion of such a meeting for the purpose of discussing the Customs Question, at any rate, came from the Coast Colonies. Ever since peace was restored in South Africa, the Government of Natal have been expressing a desire for such Conference. But I think the first formal proposal came from the right hon. gentleman, the Prime Minister of the Cape Colony. There was never any doubt of the willingness of the two new Colonies to come to such a meeting, and when, at my suggestion, the invitation was extended, with the complete concurrence of the older British Colonies, to Rhodesia and to our Portuguese neighbours, it was readily accepted.

But in the course of the preliminary communications the scope of the Conference was considerably extended. It so happened that, at the time when those preliminary communications were passing, the Secretary of State for the Colonies was in South Africa, and it appeared to

him, and in view of the readiness with which his proposal was accepted, I take it that it now appears to us all, that the opportunity of a meeting of this kind, in which all the British Colonies are brought together for the first time, should not be lost for an exchange of views on other questions of common interest besides the Customs Question, which is the primary object of our meeting. That is how it comes about that the discussion of the Native Question and the question of Alien Immigration figure among the Agenda of the Conference. I think it is unnecessary to dwell upon what we must all recognise, namely, the desirability, as far as it may be practicable, of a common policy on both these matters throughout South Africa. But I should not wish it to be supposed, because these questions, upon which our common interests are so obvious and which all the British Colonies here present have agreed to discuss, were the only ones specially mentioned in the final invitation to this meeting, that there is a desire to exclude—certainly there is no such desire on my part —any other matter of common interest which any party to the Conference may wish to bring forward and which the other parties may unanimously agree to consider. On the other hand, it would not, I think, be fair to raise here any question, to the introduction of which any party may object and which had not been specifically mentioned in the invitation to the Conference. I do not indeed suppose there is the least likelihood of a proposal being made to discuss matters, the discussion of which would not be acceptable to the Conference as a whole. But it seems desirable to make the position clear in this respect from the outset.

There is just one other remark which I may, perhaps, be permitted to make. The Customs Question seems to me to stand on a somewhat different footing from the other subjects included in the Agenda, or which may be

added to this Agenda by unanimous agreement during the course of the Conference. Our object in discussing the Customs Question is to arrive at an immediate definite result, namely, a Customs Union among all the States here represented, such as formerly existed between Cape Colony, Natal, and the old Orange Free State. Of course I need not say that, even if, as a result of our deliberations, we should agree upon a draft Convention, it would require legislation in each of the States to make it binding upon that State. But at any rate, as far as Customs are concerned, our object is a perfectly definite one—a formal, though provisional, agreement, involving common action. We may not, it is true, arrive at that result, but I hope and believe we shall. At any rate we are unanimous in desiring it. But with regard to the other subjects of discussion, the case is different. No one can anticipate that our deliberations, however rich in results, will lead to the drafting of, for instance, a common Native Code for all the Colonies of South Africa. What we may hope for is an agreement on certain general principles which, being adopted by a body like this, would undoubtedly possess very high moral authority and could not fail to exercise a good influence on the future legislation of the several States and on their administrative action in matters affecting Native Administration. And the same applies to the question of Alien Immigration. I say we may hope for agreement on the main principles, which should govern our several actions with regard to these matters. But I do not go so far as to say that I count upon it. Nor should I regard our discussions as vain if they did not result in definite resolutions, even on questions of principle. The mere exchange of ideas, between leading and representative men, on questions of this great importance to us all, in an atmosphere so favourable to frank, businesslike and unbiassed discussion, as

that of a Conference of this character, may be of great value.

I have only one or two remarks to make on the question of procedure. Arrangements are being made for a note to be kept of the proceedings of this Conference. They are, of course, private notes. These reports will be printed and circulated amongst the members of the Conference as soon as possible, so that they may be in a position to make any corrections. Whether all or any portion of these proceedings should be published is a matter which rests absolutely with the Conference, and without a resolution passed by the Conference nothing whatever will be made public. There are certain questions which the Conference will have to decide. It is certainly not my intention to decide them for the members. For instance, the question of voting—in case there is any voting. But perhaps we shall be unanimous on every point. We must decide whether the votes shall be by States or by individuals. I have my own opinion on that point, but I would rather leave it to the members of this Conference to decide. Then there is the question of the presence of the Advisers throughout the session of the Conference—whether it is necessary to impose upon them the duty of being present every day. And there may be other questions of procedure which you will have to decide. They are essential before we can proceed. Then we shall have to decide the order in which we shall discuss the several subjects—all these matters I desire to leave to the Conference to decide.

And now, gentlemen, it only remains for me to declare he proceedings of this Conference open. . . .

Extracts from Minutes of Conference.

10 *March*, 1903.

[p. 4.] 4. The question of procedure was first discussed. It was decided to vote by States.

The following resolution was moved by Sir Gordon Sprigg [Premier of Cape Colony], seconded by Sir Albert Hime [Premier of Natal], and carried unanimously:—

"That this Conference take into consideration in the first instance the question of a Customs Union."

[p. 5.] 5. The following resolution was moved by Sir Albert Hime, seconded by Mr. Duncan [Transvaal], and carried unanimously:—

"That all the Colonies represented are in favour of the establishment of a Customs Union based on a common tariff, and would welcome the adhesion to such a Union of the Province of Mozambique."

[p. 6.] Throughout the Minutes, wherever the word *unanimous* occurs it refers to the British States only. The Portuguese Delegate took no part in any division, he having expressly stated at the outset that he was present in a deliberative capacity only and had no power to bind his Government.

11 *March*, 1903.

[p. 6.] 3. Mr. Hosken [Transvaal], moved and Mr. Duncan seconded the following resolution:—

"That the establishment of a Customs Union affirms the principle of an equal tariff throughout the Union, and consequently involves the abolition of transit dues, preferential railway rates, and all special imposts or charges affecting particular members of the Union and not specially provided for in the Union tariff."

[p. 6.] 4. After prolonged discussion, the following amendment was moved by Mr. Ehrlich [Orange River Colony], and seconded by Mr. Wilson [Orange River Colony]:—

"This Conference being of opinion that differential railway rates have an important bearing and influence upon a customs tariff, resolves that,

after a Customs Union Tariff has been agreed upon, the question of railway rates in their relation thereto should be considered."

[p. 6.] 6. The President read the following suggestion handed in by Sir Gordon Sprigg and Sir Albert Hime :—

"Should the delegates of the inland Colonies agree to the levying of moderate Customs Duties on the importation of certain articles which are produced in South Africa, the Cape and Natal delegates pledge themselves to support at the forthcoming Railway Conference a reduction by 25 per cent. of the through rates on the following imported food-stuffs, viz. :—Corn and Grain, Meal and Flour, Rice, Fresh, Chilled and Frozen Meat, and they further pledge themselves to recommend and support a resolution to the effect that the present through rates on other goods shall not be increased without the consent of all the Governments concerned."

[p. 6.] 7. This suggestion having been discussed, the following resolution was moved by Sir Albert Hime, and seconded by Mr. Fraser [Orange River Colony]:—

"That this Conference desires to recommend the immediate assembling in Bloemfontein of the impending Railway Conference, with a view to the decision of certain questions of rates which the Conference regards as essential to the proper consideration of the proposed Customs Tariff."

Mr. Hosken and Mr. Ehrlich thereupon withdrew their respective motions by leave of the Conference, and Sir Albert Hime's motion was carried unanimously.

12 *March*, 1903.

[p. 8.] 6. [A motion was carried unanimously as follows :—]

"That the following be instructions to the Committee appointed to draw up a tariff :—

'I. That a due measure of protection be afforded to the products and industries of South Africa.

'II. That as many articles as possible be included in the general *ad valorem* rate.

'III. That the duty on meat of all kinds be 1d. on the lb., but that the collection of the duty on fresh, chilled and frozen meat and on animals for slaughter be suspended until the majority of the parties to the Conference agree to remove such suspension.

'IV. That the duty on grain be 1s. on 100 lbs.

'V. That the *ad valorem* duty be 9 per cent., calculated on the price of the goods at the place of purchase.

'VI. That effect be given to the resolution passed by the Conference in favour of preferential treatment to the products and manufacturers of the United Kingdom. That the preference take the form of a rebate of 25 per cent. of the *ad valorem* duty on all goods classified under an *ad valorem* rate, and that in reviewing the free list and the specially rated list the Committee give special attention to the question of transferring certain articles to *ad valorem* rates with a view to giving a benefit to British trade.'''

[The meetings of 16, 17, 18 March, were concerned with the Native Question.]

19 *March*, 1903.

[p. 12.] 2. The resolutions carried *seriatim* by the Conference on the preceding days in regard to the Native Question and to Restrictions on Immigration were brought up as a whole and subjected to certain verbal

amendment and rearrangement. It was then proposed by Sir Gordon Sprigg, seconded by Mr. Hyslop [Natal], and carried unanimously, that the resolutions be adopted by the Conference and made public.

The resolutions as approved by the Conference in their final form stood as follows:—

Native Question.

I. That the Native Question embraces the present and future status and condition of all aboriginal natives of South Africa, and the relation in which they stand towards the European population.

The advancement of the Native should proceed under the direction and control of Government on definite lines of policy, and the objects to be aimed at should be his industrial training and his moral and intellectual improvement.

II. That this Conference strongly supports the principle of the total prohibition of the sale of intoxicating liquor to the aboriginal natives of South Africa, and urges upon the Governments of the States and Colonies concerned the importance of maintaining this principle.

III. That the reservation by the State of land for the sole use and benefit of natives involves special obligations on their part towards the State.

IV. That this Conference deplores the misconception existing in certain quarters in the Mother Country regarding South African policy and feeling in the matter of obtaining native labour required for private enterprise and affirms that forced labour is not countenanced by any South African Government and is repugnant to civilised opinion throughout the Country.

V. That, excepting in Rhodesia, the influence of

polygamy upon the labour supply of South Africa is greatly exaggerated; that polygamy is decreasing from natural causes; that the advance of civilisation has ameliorated the condition of the native women, and that the use of the plough has relieved them largely from field labour.

VI. That this Conference is of opinion that an increase of the labour supply may be promoted by still further improving the conditions under which natives work, and desires to call attention to the value placed by the delegates of the Cape Colony upon the system of residential locations now established at the Cape Ports, which, if adopted at other industrial centres, would in their opinion lead to a better supply of labour and continuity of service.

VII. That where no railway facilities are afforded, free shelter, under Government supervision, should be provided, where food may be purchased by natives travelling to and returning from labour markets.

VIII. That this Conference after considering all available statistics and hearing the reports of the highest official authorities of the several States, has come to the conclusion that the Native population of Africa, South of the Zambesi, does not comprise a sufficient number of adult males capable of work to satisfy the normal requirements of the several Colonies, and at the same time furnish an adequate amount of labour for the large industrial and mining centres. Under these circumstances, it is evident to the Conference that the opening of new sources of labour supply is requisite in the interest of all the South African States.

IX. That all British possessions in South, Central and East Africa should be an open field for labour recruiting, and that all natives should be allowed to chose their own spheres of work.

X. That in view of the coming federation of the South African Colonies, it is desirable that a South African Commission be constituted to gather accurate information on affairs relating to the natives and native administration, and to offer recommendations to the several Governments concerned with the object of arriving at a common understanding on questions of native policy. Such Commission to consist of two representatives from each of the Colonies, and one each from Rhodesia and Basutoland, with the addition of a Chairman to be nominated by the High Commissioner.

Restrictions on Immigration.

I. That in the opinion of this Conference there should be uniform legislation with regard to the immigration of undesirable persons into South Africa.

II. That in the opinion of this Conference the permanent settlement in South Africa of Asiatic Races would be injurious and should not be permitted; but that, if industrial development positively requires it, the introduction of unskilled Asiatic labourers, under a system of Government control providing for the indenturing of such labourers and their repatriation at the termination of their indentures, should be permissible.

[The meetings of 20 and 21 March were concerned with the draft Tariff.]

23 *March*, 1903.

[p. 15.] 3. After considerable amendment, involving the omission of certain Articles and the insertion of others, the draft Convention was finally carried unanimously in the form in which it is appended to these Minutes.

Sir Albert Hime, while recognising the necessity of including Article XXI. in the Convention, desired to record a protest against the principle involved in the *modus vivendi* between the Transvaal and the Province of Mozambique, by which preferential treatment was accorded in a British Colony to the products of the Colony of a foreign State.

4. The draft Convention[1] having been carried as a whole, the following resolution was moved by Sir Albert Hime, and seconded by Sir Gordon Sprigg:—

"This Conference hails with thankfulness the great stride that has been made towards the political unification of South Africa by the agreement now arrived at providing for the establishment of a Customs Union, and affirms the desirability of bringing about a political union for British South Africa.

"This Conference further desires to express the hope that the day may not be far distant when it may be possible to summon a Conference to consider and endeavour to provide for the union under the central Federal administration of the whole of the Colonies and Territories under British Rule, and the establishment of the Commonwealth of South Africa."

It was agreed that the vote on this question should not be taken by States, but that each member of the

[1] The Convention (Cd. 1599) differs comparatively little from the subsequent Convention of 1906 (Cd. 2977) the principal parts of which are printed below. See Vol. II., p. 25.

Conference should vote according to his individual opinion.

The motion was then put to the Conference, and carried unanimously.

XLVIII. Order in Council for the Establishment of an Inter-Colonial Council in South Africa.

[House of Commons Papers (1905), 130, pp. 50-54.]

At the Court at Buckingham Palace,
The 20th day of May, 1903.
Present:
The King's most Excellent Majesty

Lord President	Lord Steward
Marquis of Londonderry	Earl of Onslow

Whereas by Letters Patent dated the 2nd day of August, 1901, creating the offices of Governor and Lieutenant-Governor of the Orange River Colony, and by Letters Patent dated the 23rd day of September, 1902, creating the offices of Governor and Lieutenant-Governor of the Transvaal, power was reserved to His Majesty the King, with the advice of His Privy Council, to make Laws or Ordinances for the peace, order, and good government of the Orange River Colony, and of the Transvaal; and whereas by the said Letters Patent, the police force known as the South African Constabulary was placed under the direct administration and control of the High Commissioner for South Africa:

And whereas by an Order in Council dated the 15th day of September, 1902, certain railways in the Transvaal and Orange River Colony thenceforward to be known as the Central South African Railways, were ordered to be administered and worked as one railway system under the direct control and authority of the High Commissioner for South Africa; and a Financial Board of Con-

trol was by the said Order in Council established for the purpose of the financial administration of the said railways:

And whereas it is desirable to make further provision for the financial administration of the said railways and the employment of the net revenue thereof, and also for the supervision of the expenditure on the South African Constabulary, and other expenditure common to the Transvaal and Orange River Colony:

Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, as follows:—

I. This Order may be cited as the Inter-Colonial Council South Africa Order in Council, 1903.

II. In this Order the expression "Secretary of State" means one of His Majesty's Principal Secretaries of State. The expression "High Commissioner" means the High Commissioner for South Africa.

III. The officer for the time being discharging the duties of Governor of the Transvaal and Governor of the Orange River Colony shall, so long as the duties of the said offices continue to be discharged by one and the same person, be High Commissioner for South Africa, and the said officer for the purposes of this Order shall be styled "the High Commissioner and Governor."

IV. An Inter-Colonial Council, hereinafter called "the Council," shall be established to advise the High Commissioner and Governor on the following matters:—

(*a*) The financial administration of the Central South African Railways and the employment of their revenue.

(*b*) The expenditure on the South African Constabulary.

(*c*) The following expenditure common to the Transvaal and Orange River Colony which is hereby placed under the authority of the Council:—

i. The expenses of the Governor's Establishment in the Transvaal and Orange River Colony respectively;

ii. The expenses of Geodetic Survey;

iii. The expenses of the Permit Office;

iv. The expenses of the Transvaal and Orange River Colony Enquiry Offices at the South African ports;

v. Such expenses as the Council may think necessary for the proper conduct of its business.

(*d*) Such other expenditure common to the Transvaal and Orange River Colony as may from time to time be placed under the authority of the Council by the Legislative Councils of the Transvaal and Orange River Colony with the consent of a Secretary of State.

(*e*) Any matter connected with the administration of the Central South African Railways and the South African Constabulary, or any other branch of the public service common to the Transvaal and the Orange River Colony, the expenditure on which may be placed under the authority of the Council in accordance with the provisions of this Order.

(*f*) The proper carrying out of the provisions of this Order.

V. The said Council shall be constituted as follows:—

The High Commissioner and Governor.

The Lieutenant-Governor of the Transvaal.

The Lieutenant-Governor of the Orange River Colony.

The Inspector-General of the South African Constabulary.

The Commissioner of Railways.

Two members of the Executive Council of the

Transvaal to be nominated by the Lieutenant-Governor of the Transvaal.

Two members of the Executive Council of the Orange River Colony to be nominated by the Lieutenant-Governor of the Orange River Colony.

Two members of the Legislative Council of the Transvaal to be elected from amongst themselves by the unofficial members of the said Legislative Council.

Two members of the Legislative Council of the Orange River Colony to be elected from amongst themselves by the unofficial members of the said Legislative Council.

Two other members to be nominated by a Secretary of State, who may or may not be members of the Legislative Council of the Transvaal or of the Legislative Council of the Orange River Colony.

The members to be nominated as above provided by the Lieutenant-Governors or by a Secretary of State shall hold office for 12 months from the date of such nomination, and the members to be elected as above provided shall hold office for 12 months from the date of such election.

VI.—(1) The High Commissioner and Governor shall be the President of the said Council, and shall, if present, preside at its meetings. If at any meeting of the Council the High Commissioner and Governor shall be absent, the Lieutenant-Governor of the Transvaal shall preside, and in his absence the Lieutenant-Governor of the Orange River Colony.

(2) The Council shall not proceed to business unless there shall be present at least seven members,

including three from the Transvaal and three from the Orange River Colony.

(3) The Council may make Standing Orders for the conduct of its business.

(4) Any question submitted to the Council shall be decided by a majority of votes, and in case of an equality of votes the President shall have a casting vote as well as an original vote.

VII.—(1) Subject to the provisions of this Order, the Council shall be summoned to meet at such time and place as the High Commissioner and Governor may determine.

(2) There shall be one Ordinary Meeting in each year, to be summoned in the month of April or May, of which 14 days' notice shall be given to each member of Council: Provided always, that in the present year such Ordinary Meeting may be held at a later date, but as soon as practicable after the publication of this Order. The High Commissioner and Governor may at any other time, with such notice as aforesaid, summon the Council to an Extraordinary meeting. The object for which an Extraordinary meeting is summoned shall be stated in the notice summoning it.

VIII. The Council shall keep or cause to be kept an account of the revenues accruing to it under the next following section of this Order and of the expenditure thereof, and may appoint an officer or agent to receive such revenues. No payment shall be made out of such revenues except upon a warrant signed by two members of Council, one of whom shall be the High Commissioner and Governor.

IX. The following revenues shall be paid to the Council by the officers responsible for the collection thereof:—

(*a*) The net profits of the Central South African Rail-

ways which shall remain after providing for the expenses of working, administration, and maintenance, and for other necessary expenditure in connection with the said railways.

(*b*) Any other net profits from railways which may become payable to the Government of the Transvaal or the Government of the Orange River Colony.

(*c*) Any other revenues which the Legislative Council of the Transvaal or the Legislative Council of the Orange River Colony may, with the consent of the Secretary of State from time to time, devote to meeting expenditure common to these two Colonies.

(*d*) Such portions of the loan authorised by the Transvaal Guaranteed Loan Ordinance, 1903, as the Lieutenant-Governor of the Transvaal may hand over to the Council for the purposes specified in the Schedule to the said Ordinance.

X. Anything in this Order or in the Order in Council of 15th September, 1902, notwithstanding, the assets of the Central South African Railways shall be deemed to be a part of the assets of the Transvaal for the purpose of securing the principal, interest, and sinking fund of the loan authorised by the Transvaal Guaranteed Loan Ordinance of 1903. The annual charges for interest and sinking fund on the aforesaid loan shall be a first charge on the net profits of the Central South African Railways, and the Council, before dealing in any way with the said net profits, shall, so far as such net profits suffice, pay to the Lieutenant-Governor of the Transvaal in each half-year a sum equal to the half-year's interest and sinking fund on the said loan in time to enable him to remit the said half-year's interest and sinking fund respectively to the Bank of England and the Crown Agents for the Colonies as provided in the said Ordinance.

XI.—(1) At the aforesaid Ordinary Annual Meeting of the Council it shall be the duty of the Council to draw up and approve a Budget for the ensuing financial year, comprising:—

On the Revenue side—

The revenue accruing to the Council under section IX. of this Order.

On the Expenditure side—

(*a*) The payments on account of interest and sinking fund on the Transvaal Guaranteed Loan of 1903, as provided in the last preceding section of this Order.

(*b*) The estimated expenditure of the South African Constabulary.

(*c*) Any sums which the Council may, with the approval of a Secretary of State, see fit to devote to the extension of any of the existing lines of railway within the Transvaal or Orange River Colony, or to the construction of any other railway lines within the said Colonies, or the extension thereof.

(*d*) The estimated expenditure on any other public services common to the Transvaal and Orange River Colony as to which authority is or may be given to the Council in accordance with the provisions of this Order.

(2) In order to enable the Council to frame the Budget, draft Estimates of the various items of Revenue and Expenditure above enumerated shall be laid before it by the several Administrations concerned at the Ordinary Annual Meeting.

(3) The Expenditure side of the said Budget, when finally approved by the Council and by a Secretary of State, shall have the same force and effect as an Appropriation Ordinance, that is to say, it shall be Authority to the several Ad-

ministrations concerned to expend the sums provided in the said Budget for the purposes for which they are severally granted, during the ensuing financial year; and the Council shall by warrant, as provided in section VIII. of this Order, issue to the several Administrations concerned the sums which they may from time to time require for this purpose.

(4) If the provision made in the said Budget appears in the course of the financial year to be insufficient, the High Commissioner and Governor shall summon an Extraordinary Meeting of the Council in order to make further provision for the expenditure on the services enumerated in this section.

XII.—(1) If in any financial year the revenue at the disposal of the Council, after payment of the annual charge for interest and sinking fund of the Transvaal Guaranteed Loan of 1903 shall appear to be insufficient to meet the Expenditure provided for in the Budget, exclusive of the interest and sinking fund of the Transvaal Guaranteed Loan, or in any Supplementary Budgets approved by the Council, the deficiency shall be made good by contributions from the Treasuries of the Transvaal and Orange River Colony, which contributions shall be in such proportion as a Secretary of State may direct, or, failing such directions, in proportion to the respective revenues from Customs Duties of the said Colonies during the financial year previous to that for which the contributions are required.

(2) In order to enable the Governments of the Transvaal and the Orange River Colony to make provision for any contribution which may be required from them under the last preceding section

of this Order, the High Commissioner and Governor shall, as soon as the Budget for the ensuing financial year shall have been fixed by the Council, inform the Governments of the said Colonies of any anticipated deficiency on the said Budget, and of the amount of the contribution which it is estimated by the Council will be required from either of the said Colonies to make good such deficiency. The amount of any contribution from either of the said Colonies, so estimated, shall be included in the Estimates or Supplementary Estimates of the said Colony for the financial year, in respect of which the contribution is required, and in any Appropriation Ordinance confirming such Estimate.

XIII. If in any financial year the revenue at the disposal of the Council exceeds the expenditure to be provided for, as specified in section XI. hereof, the balance shall be paid over to the Treasuries of the Transvaal and Orange River Colony in such proportions as a Secretary of State may direct, or, failing such directions, in the proportion of two-thirds of the Transvaal and one-third to the Orange River Colony.

XIV.—(1) The Council shall every year, at its Ordinary Meeting, appoint from among its members a Standing Committee, to be called the "Railway Committee," consisting of not less than three or more than five members, of which Committee the Commissioner of Railways shall be Chairman.

(2) The Railway Committee shall, subject to the provisions of this Order and to the powers herein given to the Council, take the place of and discharge the duties hitherto discharged by the "Financial Board of Control," established under

Section 6 of the Order in Council of the 15th day of September, 1902.

(3) The Railway Committee shall prepare and submit to the Council at its Ordinary Annual Meeting Estimates of the gross receipts of the Central South African Railways for the ensuing year, and of the cost of working, administration, and other services necessary to the maintenance of the said railways, and such Estimates when approved by the Council, with or without amendment, shall be authority to the Commissioner of Railways to expend the sums provided in the said Estimates for the purposes for which they are granted.

XV. The Council, with the consent of a Secretary of State, shall have power to authorise the construction of any railway in the Transvaal or Orange River Colony, either out of public funds lawfully available for such purpose, or by private enterprise, and to enter into an agreement for the construction or management of any railway so authorised with a private individual or company: Provided always, that every such agreement shall reserve the power to expropriate such railway. The Government of the Transvaal and Orange River Colony shall take all necessary steps, by legislation or otherwise, to carry out and give effect to any arrangements made by the Council, with regard to the construction, management, control, or expropriation of any railways within the two Colonies.

XVI. In addition to the matters specially dealt with in this Order, the High Commissioner and Governor may at any time submit to the Council for their advice any matter connected with the administration of the South African Constabulary, the Central South African Railways, or any other branch of the public service common to the Transvaal and Orange River Colony,

the expenditure on which is or may be placed under the authority of the Council, in accordance with the provisions of this Order. The High Commissioner and Governor shall not be bound to act upon the advice of the Council, but if he does not do so, he must record in writing the reasons for which he differs from such advice, and submit the whole matter at the earliest opportunity to a Secretary of State.

XVII. The Council may appoint such officer or officers as it may think necessary for the proper conduct of its business, and may pay to any such officer or officers such salary or remuneration as the Council may, with the approval of a Secretary of State, prescribe. The salary or remuneration of such officer or officers shall be paid out of the funds at the disposal of the Council.

XVIII. Sections 6 and 7 and any other provision of the Order in Council of 15th September, 1902, which may conflict with the provisions of this Order, shall be and are hereby repealed.

XIX. His Majesty may at any time alter, add to, or amend the provisions of this Order.

XX. This Order shall come into operation on a day to be notified by the High Commissioner, by Proclamation published in the High Commissioner's Gazette and in the Official Gazettes of the two Colonies.

XXI. Judicial notice shall be taken of this Order and of the commencement thereof.

A. W. Fitzroy.

The above Order was amended by a further Order in Council of 21 April, 1904, as follows :—

In Section V. after "The Commissioner of Railways" continue :—

Four members to be nominated by the Lieutenant-Governor of the Transvaal, being persons holding office under the Government of the Transvaal.

Four members to be nominated by the Lieutenant-Governor of the Orange River Colony being persons holding office under the Government of the Orange River Colony.

Six members of the Legislative Council of the Transvaal to be elected from amongst themselves by the unofficial members of the said Legislative Council.

Four members of the Legislative Council of the Orange River Colony to be elected from amongst themselves by the unofficial members of the said Legislative Council.

Two other members to be nominated by a Secretary of State who may or may not be members of the Legislative Council of the Transvaal or of the Legislative Council of the Orange River Colony.

One member to be nominated by the High Commissioner and Governor, being a person holding office in any branch of the Public Service common to the Transvaal and Orange River Colony in regard to which the Council may for the time being have power to advise the High Commissioner.

[Power to appoint a substitute during the temporary absence of a member.]

In Section XIV. (1) substitute "nine" for "five." By another Order in Council of 12 January, 1905, Section XV. was slightly amended by the provision that "the construction of a railway by the Government of Cape Colony or Natal or by a company shall be deemed to be construction by private enterprise."

XLIX. Order in Council providing for the Government of Swaziland, 25 June, 1903.

[House of Commons Papers (1905), 130, pp. 57-59.]

At the Court at Buckingham Palace,
The 25th day of June, 1903.

Present:
The King's most Excellent Majesty in Council.

Whereas the Government of the late South African Republic exercised rights and powers of protection, legislation, jurisdiction, and administration in and over the territory known as Swaziland:

And whereas the late South African Republic was conquered by His Majesty's Forces and was annexed to and now forms part of His Majesty's Dominions and provision has been made for the government thereof as one of His Majesty's Colonies under the name of the Transvaal:

And whereas all the rights and powers of the late South African Republic with respect to Swaziland have, by virtue of the conquest and annexation of the said South African Republic passed to His Majesty, and His Majesty has by treaty, capitulation, grant, usage, sufferance and other lawful means, power and jurisdiction in Swaziland:

Now, therefore, His Majesty, by virtue of the powers by the Foreign Jurisdiction Act, 1890, or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows:—

I. This Order may be cited as the Swaziland Order in Council, 1903.

II. In this Order unless the contrary appears "Swaziland" means the territory known by that name bounded on the North, the West and the South by the Transvaal, and on the East by the Colony of Natal and the Portu-

guese territories. "His Majesty" includes His Majesty's heirs and successors, "Secretary of State" means one of His Majesty's Principal Secretaries of State. "Governor" means the person for the time being administering the Government of the Transvaal as Governor thereof. "Gazette" means the Transvaal Government Gazette.

III. The Governor of the Transvaal may, on His Majesty's behalf, exercise all powers and jurisdiction which His Majesty, at any time before or after the date of this Order, had, or may have, within Swaziland, and to that end may take or cause to be taken all such measures, and may do or cause to be done all such matters and things therein as are lawful and as in the interest of His Majesty's service he may think expedient, subject to such instructions as he may from time to time receive from His Majesty, or through a Secretary of State.

IV. The Governor may appoint a Resident Commissioner and so many fit persons as, in the interest of His Majesty's service, he may think necessary to be Assistant Commissioners, Judges, Magistrates, or other Officers, and may define from time to time the districts within which such Officers shall respectively discharge their functions.

Every such Officer may exercise such powers and authorities as the Governor may assign to him, subject nevertheless to such directions and instructions as the Governor may from time to time think fit to give him. The appointment of such Officers shall not abridge, alter, or affect the right of the Governor to execute and discharge all the powers and authorities hereby conferred upon him.

The Governor may remove any Officer so appointed.

V. In the exercise of the powers and authorities hereby conferred upon him, the Governor may, amongst other things, from time to time by Proclamation,

provide for the administration of justice, the raising of revenue, and generally for the peace, order, and good government of Swaziland, and of all persons therein, including the prohibition and punishment of acts tending to disturb the public peace.

The Governor, in issuing such Proclamations, shall respect any native laws by which the civil relations of any native chiefs, tribes, or populations under His Majesty's protection are now regulated, except so far as the same may be incompatible with the due exercise of His Majesty's power and jurisdiction, or clearly injurious to the welfare of the said natives.

VI. Every Proclamation of the Governor shall be published in the Gazette, and shall from and after a date to be mentioned in such Proclamation, and thereafter until disallowed by His Majesty or repealed or modified by any subsequent Proclamation, have effect as if contained in this Order, and the Governor shall take such measures as he thinks proper for giving due publicity thereto within Swaziland.

VII. His Majesty may disallow any such Proclamation wholly or in part, and may signify such disallowance by Order in Council or through a Secretary of State, and upon such disallowance being notified in the Gazette, the provisions so disallowed shall from and after a date to be mentioned in such notification, cease to have effect, but without prejudice to anything theretofore lawfully done thereunder. Due notification shall be publicly made by the Governor within Swaziland of the disallowance of any such Proclamation.

VIII. The Governor shall use the Public Seal of the Transvaal for sealing all things whatsoever relating to Swaziland that are required to be under Public Seal.

IX. The Governor may as he shall see occasion, when any crime has been committed within Swaziland, or for which the offender may be tried therein, grant a pardon,

in His Majesty's name to any accomplice, not being the actual perpetrator of such crime, who shall give such information and evidence as shall lead to the apprehension and conviction of the principal offender; and further, may grant to any offender convicted of any crime in any court, or before any Judge, Justice, Magistrate, or other Officer within Swaziland a pardon, either free or subject to lawful conditions, or any respite of the execution of the sentence of any such offender, for such period as to the Governor may seem fit, and may remit any fines, penalties, or forfeitures which may become due and payable.

X. Any revenues which may be collected in or in respect of Swaziland shall be paid into the Treasury of the Transvaal, and all expenditure incurred under and in accordance with the provisions of this Order shall be paid out of the revenues of the Transvaal.

XI. This Order shall be published in the Gazette, and shall thereupon come into operation, and the Governor shall give directions for the publication of this Order at such places, and in such manner and for such time or times as he thinks proper for giving due publicity thereto within Swaziland.

XII. His Majesty may from time to time revoke, alter, add to, or amend this Order.

And the Right Honourable Joseph Chamberlain, one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

A. W. Fitzroy.

L. Extracts from Speech of Right Hon. Sir Henry Campbell-Bannerman, M.P., concerning the Policy of the Liberal Party, Dundee, 18 November, 1904.

[*The Times*, 18 November, 1904, p. 6.]

The Colonial Secretary [Mr. Alfred Lyttelton] had been recently giving rein to his own delight in his

own Transvaal policy. He fancied that the Colonial Secretary must have thought that they were so occupied in endeavouring to penetrate the labyrinths and the intricacies of the Prime Minister's [Mr. A. J. Balfour] philosophication and sophistication that he would have had it all his own way. He had told them that the Chinese labour question was amicably and finally settled, and said they had got a country which had been devastated and had to be reconstructed as regarded everything almost except the soil itself. How did the Colonial Secretary propose to reconstruct the country? They required money, he said. There was nothing novel about that. He told them there was only one great source of money in South Africa—namely, the gold mines—and in order to get this money, not for the cosmopolitan magnates and their shareholders but for the reconstruction of the Colonies, after they themselves had devastated it, the next step was the introduction of Chinese labour. If the importation of the Chinaman was undertaken for the good of the Colony why were not the people of the Colony consulted? Why were the protests of the Boers, who, after all, knew a good deal about the country and were our fellow-citizens in the country, flouted with contempt? Why was the opinion of the neighbouring State, Cape Colony, expressed deliberately and publicly by its Prime Minister and his colleagues in the Ministry, flung back in their faces? And why was the opinion of Australia and New Zealand, who had sent their sons to shed their blood in the war for the purpose of acquiring the colony, not before the Commission which sat upon the subject? Having forced Chinese labour upon the Transvaal, they now turned round and said that, in order to ascertain the opinion of the people, they were to give some sort of self-government, some sort of representative system. He complained that no informa-

tion was given to Parliament as to how it was to be done, and went on to say that it would probably be just enough of self-government and representation, but no more, as should confirm the mine-owners in the freehold of the Chinese compound. No doubt the mine-owners looked forward to a sweeping victory for the pro-Chinese candidates and he dared say would provide them with means and canvass for them. Lord Harris, as chairman of the Consolidated Goldfields Company, a concern which consolidated a profit of £465,000 last year and paid a dividend of 12½ per cent., informed his shareholders that they might be called on shortly to incur some additional outlay in respect of the augmented staff that would be required if the company devoted itself to the full discharge of their new political responsibilities as good citizens of the Transvaal. He ventured to say that never was a more hypocritical and evil-flavoured announcement than this made at the end of last month. There were 13,000 Chinamen on the Rand, and in a few months their numbers might be doubled or trebled. The Colonial Secretary looked upon this as an untold blessing. The right hon. gentlemen had often been misled before, quite unwittingly, he was sure, and he had, in turn, misled the House of Commons and the country. For instance, with regard to the existence of a great financial crisis when it turned out there was no crisis; with regard to the bringing over from China of wives and children, when not a single wife and child had yet come; and with regard to the rate of wages and the question of Chinese overseers. But as a misleader, he was only unwittingly, but with perfect loyalty, carrying out the traditions of his predecessors.

What were they to say of the precise amount of white labour displaced—increased, the Colonial Secretary said—by this arrival of Chinese? Two remarks he would

make upon this. First, that the Colonial Secretary's method of calculation landed him in this position, that to secure a few thousand more white workmen in employment the country must be flooded with Chinese. It would take 100,000 to provide employment for 13,000 white men. This was the new method invented by the Government for colonising the Colony, but it was one which would hardly reconcile the British public to the stain which it had placed upon the British flag. His second remark was that the same, or more rapid, increase might have been attained if the Kaffirs had been better treated, with fair wages and with a decent guarantee against the climatic and industrial risks which had been so fatal to them in the past. This mine-owners' policy was the end of the hope of making South Africa a white man's Colony. What would it be? A country of mixed races, of mixed antagonistic, jealous, and rival races. Into the confusion already existing this new element was to be introduced, and had been introduced, and out of such a witches' cauldron as this what hope was there of reconstructing the Colony in a way which the consciences of this country would sanction? What hope was there of self-government? What hope of real government and what hope of South African federation? It was too late to appeal to the Government. The Colonial Secretary pronounced his work good. The position of the Liberal party was that this enterprise could not come to good. Their hands were free and their conscience was clear. They never sanctioned the war and they had given no sanction to this last and culminating step. If and when the time came for them to take over the responsibility of government, he could only say in this confused matter that they should approach the question from the point of view of the permanent interests of the country, and not merely from the point of view of the temporary exigen-

cies of those who financed the gold mines. For his part he saw no light for the Transvaal until a full and encouraging measure, an honest measure of self-government, was granted, which would enable white men of all races to join hands in restoring the fortunes of what was now their common country.

LI. Letter to the *Rand Daily Mail* announcing the Formation of the Transvaal Progressive Association, 22 November, 1904.

[Parl. Pap., Cd. 2479, pp. 1-2.]

As it is common knowledge that in the course of the next few months a measure of self-government will be granted to this Colony, it appears to us that the time has arrived for the formation of a political organisation of which we suggest the following should be the title and platform :—

Title.

The Transvaal Progressive Association.

Programme.

1. The maintenance of the British flag.[1]

2. The immediate fulfilment of the promise contained in the King's Speech of the 15th August last, by the establishment of representative government on liberal and fair lines, with a view to preparing the way for the grant at as early a date as expedient of the freest and fullest form of responsible government.

3. The recognition of the principle that all voters shall have the same privileges and their votes the same value.

4. A firm and just native and Asiatic policy in accordance with South African ideas.

5. The support of every measure that tends to make the Transvaal a white man's home.

[1] Later changed to "The maintenance of the principle of Imperial unity."

6. The opposing of interference in the affairs of the Transvaal of party politicians elsewhere.

We therefore invite all white British subjects in the Transvaal, who are in sympathy with these principles, to send their names and addresses to Colonel J. Donaldson, of 4, African Banking Corporation Building, box 3308, Johannesburg, who has agreed to act as Honorary Secretary *pro tem.*, so that a meeting may be called at an early date to decide upon a definite constitution, to appoint a committee, and to take such other steps as may be necessary to provide an effective organisation.

[Here follow 72 signatures.]

LII. Letter to the *Johannesburg Star* announcing the Formation of the Transvaal Responsible Government Association, 25 November, 1904.

[Parl. Pap., Cd. 2479, p. 3.]

Having in view that a change in the present form of Government in this Colony is under consideration,

We, the undersigned, advocate the immediate establishment of Responsible Government for the following reasons:—

1. That political stability and contentment can only be assured by a full admission of the principle that the wishes and interests of the people of this Colony must prevail, subject only to the highest Imperial considerations.

2. That the growth of a vigorous and independent spirit in political life will inevitably be retarded by the establishing of any system short of complete Responsible Government.[1]

[The 86 signatures appended contain a number of names of persons of Dutch descent.]

[1] This manifesto was the result of a number of meetings held between November 14 and 25.

LIII. Proceedings of Deputation of the Transvaal Progressive Association to Viscount Milner, 10 January, 1905.

[Parl. Pap., Cd. 2479, pp. 9-16.]

Extract from the *Rand Daily Mail*, 11 January, 1905.

The deputation waited upon the Governor to recommend the embodiment in the new Constitution of the Transvaal the following principles:—

(1) *Value of Votes.*—Electoral districts to be formed on the basis of voters, each district to contain, as near as can be, an equal number of voters, and to return one member.

(2) *Redistribution.*—Redistribution of seats, wherever required by reason of fluctuations in the number of voters, to be made periodically by a Commission appointed by the Governor, and the parties or districts dissatisfied with the results to have the power of appeal to the Supreme Court.

(3) *Qualification.*—The present municipal qualifications to be taken as a basis (with the substitution of six months' residence for three months) with the alternative qualification: All white male British subjects, and whether naturalised in Great Britain or in any of her Colonies, who can show that they are in receipt of an average income of not less than £150 per annum or who were on the First Volksraad burgher roll of the South African Republic prior to the outbreak of the war.

(4) *Executive Council.*—The Executive of the new Legislative body to be partly chosen from the elected representatives of the people.

(5) The fullest powers to be granted to the new Transvaal Legislature with the fewest possible reservations and restrictions. . . .

Opening the Deputation.

In opening the deputation, Mr. Roy [Chairman] said: I desire, on behalf of the deputation appearing before

you to-day, to thank you for the privilege and the opportunity of submitting our views with regard to this important question of the future Constitution of the Transvaal. At this stage it appears to me desirable that I should state for whom we appear, or, rather, for whom we speak. A few weeks ago the Johannesburg branch of the Transvaal Progressive Association was formed. One of the principal objects or planks in its platform was the advocating of a measure of Representative Government which we believe best suited to the welfare of this country. . . . We had hoped, sir, on this occasion to be associated with the members of the Transvaal Responsible Government Association for this reason—that the first three resolutions submitted to you to-day are common to any form of Government that may be established in this country. The resolutions are consistent with the ideas hitherto prevailing in Johannesburg, and as a proof of what we contended for many years ago, I desire to read an extract from a resolution passed at a public meeting of the unenfranchised of Johannesburg on July 26, 1899:—

> That this meeting insists upon the demand of the Uitlander Council for a redistribution of seats which shall take place periodically, and for representation which shall bear some definite relation to the number of electors.

That was passed on July 26, 1899, and it permeates the whole of the resolutions submitted to you to-day. The deputation has appointed two of its members, Messrs. Mitchell and Niven, to submit the resolutions, and to advocate our opinions. I desire that they should address you if that is the view of Your Excellency.

Mr. George Mitchell said: I have to lay resolutions Nos. 1 and 2 in regard to the value of votes and the question of redistribution before Your Excellency, and it will probably save time if, without any preliminaries,

I should proceed at once to speak on the question of equal electoral districts. Our reason for putting that forward is, in the first place, that we believe equal electoral districts will be fair and equitable. We have decided absolutely to advocate in this country the principle of one vote having one value. In doing that we are supported by what is in force in the United States of America, in Canada, and in what, I believe, is the newest Constitution, that of Australia. We desire to submit that this principle is a fair one, and a just one. It is impossible, of course, to avoid allusion to the question of the old Boer divisions of the country, and, so far as they may be practicable, we should, I think, undoubtedly desire that the old boundaries might be observed, probably that the fieldcornets' districts would form the easiest and best basis to go upon. But, whilst saying this, we desire also to emphasise the fact that even at the risk of disturbing some of these old boundaries, we do most emphatically desire to see established the principle of one vote having one value, and I must say that any departure from that would be the cause of the gravest dissatisfaction to us. We have, of course, on numerous occasions, heard arguments which have been advanced in favour of a larger representation to those who reside in the country districts, but whatever their claims may be, we would submit that those who have to bear the brunt of taxation have at least an equally strong claim on the Government.

I would submit that the two great questions, the contribution of revenue and the number of people supported by any industry, are in themselves sufficient to outweigh any arguments in support of mere representation of districts or spaces. One further argument I would advance in favour of the plea, and that is that it would eliminate, to a large extent, favouritism, or any attempt at what is known as gerrymandering. We have here asked that

the basis be that of votes and not of population, and our reasons for that are, that if you go upon population you can only be guided by your census, which will probably take place every ten years; whereas if you go upon voters, you have your voter's roll, which will probably be amended every year. Hence, on the one hand, taking the basis of voters rather than population, you exclude from the influence some of the elements in the country districts which have hitherto borne weight, whilst, on the other hand, as far as the great towns are concerned, you will also exclude from coming into the balance the aliens and floating population which would otherwise, if you go simply on the basis of population, have some bearing. I submit finally that the basis of votes is the logical basis. Now, sir, in this resolution No. 1, we have the expression "to return one member." That, in other words, is what is known generally by the designation of single-member constituencies. In regard to what is a more thorny and difficult problem, I am glad to say we have many of us studied the many experiments which have been made in other parts of the world. Some of us have been allured by the theory, the advantages of theory, of three member constituencies, and cumulative voting, and the representation of minorities, which I understand that system produces. The question of second ballots has also had its advocates. The question of the division of larger towns into districts returning two or more members has also had some support, but after a very considerable amount of thought, after a great deal of consideration, the great majority of us have finally come to the conclusion that, for great practical reasons, the single member constituency is the one best suited to this country at large. As far as the country districts are concerned, it must be obvious that any other system would possess the greatest drawbacks. It would be practically impossible owing to the large districts

which would have to be formed to have any other system. Once having established that system in the country, it seems simpler, and in many ways better, that one system should prevail throughout the whole country. The feeling in favour of single-member constituencies, I think, has been evidenced in Johannesburg by recent events, and, so far as we can gather, it would be in accordance with the wish of the majority of the people here that that principle generally should be adopted. There is one other reason, and that is, it might, we think, involve the advantage that so far as the people are concerned, they would take more interest in the elections.

I have now, sir, to go on, with your permission, to the second point, in regard to redistribution. I may say in regard to that that it is a corollary of the first proposition. It maintains the principle laid down, and provides for its automatic carrying out. We wish, if possible, to avoid the circumstances which exist now in Great Britain, and, to some extent, in the Cape Colony. We wish to avoid this country getting into such a position that the question of redistribution should become the subject of party strife and animosity. We wish it to be settled for all time by the principle which should be laid down, and which should be carried out automatically. We wish to avoid the friction which with any other course a country like this must necessarily incur, and also to avoid the great waste of time of the Legislature in dealing with questions such as this, when it would be better occupied in dealing with such measures of practical use, which this country will certainly demand. As an argument in favour of the necessity of redistribution, I would point out that, in a country like this, there must almost certainly be great fluctuations in the population, and there will probably be the growth of many new towns. If I may allude, for instance, to the great diamond mine, which is likely,

we believe, to provide a livelihood for a large number of people, it would be no unreasonable thing to say that, possibly in the course of five years, there may be 10,000 people earning their living from the industry of the mine. Is it fair to ask these 10,000 people that they should be dependent upon the will of the Legislature for their votes?

There is another instance I would like to mention, the iron industry, which, although it is only a name at present, may before long be a great factor in this country; and I say again it is no wild term to say in regard to that that in five or ten years there may be 20,000 or 30,000 people depending on the iron industry in this country. Are they to be dependent for representation on the goodwill of the Assembly here? Rather we would ask that, by a process of redistribution such as suggested, these things will be provided for in advance that these people may get representation legally. . . .

Mr. Mackie Niven was the next speaker. He said: The resolutions adopted by the Johannesburg branch of the Transvaal Progressive Association, on which I have been asked to make some remarks, are Nos. 3, 4, and 5. No. 3 deals with a subject probably as important as either of those to which Mr. Mitchell has referred—the qualification of the voters. A difference of opinion does certainly exist at present on this important question, and after giving it the very fullest consideration for a considerable time, we have come to the conclusion that it would be impolitic, unwise, and possibly might have the most disastrous results if we did not advocate here before you the principle of a broad and democratic franchise. It is quite true that the Colonial Secretary has already indicated in a public statement in the House of Commons the probability of a popular franchise being granted to the country. In

replying to a question on July 21 last by Mr. Broadhurst, who asked upon what franchise members would be elected in the Transvaal, Mr. Lyttelton said: "It would not be in order to go into details upon that; but I think if the hon. gentleman studies the matter he will see that there has not been any indisposition on the part of the Government of the Transvaal to make a very free and popular suffrage in local government. We have municipal institutions spread all over the Transvaal. There are 23 urban districts, and there are municipalities, for the first time of any power, in all the larger towns. I think, speaking from memory, the ratepayers' franchise is on a £100 fixed property and £24 annual value—a very fairly popular basis."

His Excellency: That is so, is it not?

Mr. Niven: Yes, the facts are all right. Now, sir, while that indicates very clearly the probable franchise, or, perhaps I should say, the fact that a broad popular franchise is likely to be granted to us for Parliamentary purposes in our new Constitution, we feel that the subject is one of such importance that we are justified in the special resolution which is submitted to you. What we feel is that any fancy franchise, any high franchise, could only lead to a large number of people being left without a vote. Looking at the history of politics in this country in the past ten years or so, we think that would be an impolitic proceeding for the Government to adopt. We feel that it would be creating an unfranchised class, whose agitation—a just agitation, we think—previous to the war had something to do with the unfortunate occurrences from which this country has suffered. It could only have one ending. Going now into detail for a moment, might I point out that we are advocating some slight modification of the present municipal franchise. It gives the vote to persons who have been in residence in this country for three

months. We think that for Parliamentary purposes it might be extended to six months quite safely.

We have found from experience that, with regard to the municipal franchise, inasmuch as it is the custom on the Witwatersrand, as in other parts of the country, for more than one person to reside in one room or in one small house, practical experience has shown that it is necessary to make some provision to provide that where two or more persons reside in a small building this fact should not necessarily—if the other qualifications exist—disfranchise all these persons, or all but one. We have therefore made the suggestion, as the result of our experience, that an alternative qualification should be made giving the vote, no matter how many persons occupy one house, provided that each has an average income of £150 a year who should also be entitled to be placed on the roll. We have gone further than that with regard to the older population of the country. We have made the very important recommendation that all persons on the First Volksraad Burgher Roll before the outbreak of the war should be placed on the voters' roll, irrespective of other qualifications. They are included in what is known as the municipal franchise. We have done this, first of all, because I think it is the almost universal practice that where any alteration or change of franchise has been made, it has been in the direction of increasing the number of persons to be placed on the roll, and not decreasing that number. In other words, no change of this kind has ever been made which deprives any person who has been in the habit of exercising the franchise in the past of the right to exercise it in the future. We feel that it is a measure of equity which should be extended to the older population of the country, and which on the whole will commend itself to the new population of this country.

Dealing now with resolution No. 4, there is a generally accepted view, based on I know not what exactly, that the Legislative Council which is to be granted to us will not include any of the nominated members outside the nominated official Executive. It is true that Mr. Lyttelton, replying, I think, to Mr. Swift McNeill, and the paragraph in the King's Speech simply used the phrase that the proposal is to introduce an elective element into the Legislature of the Transvaal. This matter has been under discussion for many months now, and a feeling has grown up—and I think it is a very strong feeling—that any proposal to include in the House nominated members other than the official Executive would not be received with favour in this country. I think that on this point all must be agreed. There is also a strong feeling in the country that it is no less important that the Executive (the Government of this country) should be strengthened, as we think undoubtedly it would be by the selection from the elected members of a certain proportion to be added to the official Executive. In recommending this we did so first on the ground of precedent. There are many precedents to show that where Representative Government has been granted in different British Colonies that principle of allowing the Governor to nominate from among the elected members a certain portion of the Executive has been established. There are good reasons why it should be done here. The reason advanced for giving us an elected Legislature instead of an entirely nominated Legislature is largely that the Parliament of the country should be in close touch with the people of the country, and we hold, too, that it is equally important that the Executive of the country should be in close touch with the people, and we think there is no simpler, no better way than by embodying this principle in the constitution of the selection of so many elected

members from the House to be added to the official Executive. It must be admitted that there is a serious danger in a small Parliament—the Government might select from the House, shall I say, the principal critics, possibly the principal debaters, so that the critical faculty, which is the faculty we all want to see most developed in the new Assembly, may be weakened, but the advantage seems to us to counterbalance the possible disadvantages.

Resolution No. 5 deals with matter of equal importance to any of those to which reference has been made —"the fullest power to be granted to the new Legislature with the fewest reservations and restrictions." It is quite well known that there is a considerable amount of public opinion largely in favour of the immediate introduction of full Responsible Government, but it has seemed to many of us that if it could be that some indication could be given of the nature of the Constitution and its liberal character, a great deal of that feeling would be allayed. It seems to us that a Constitution that reserves to the Crown many matters of importance to the daily life of the people of this Colony would be a fatal mistake. We must admit that the matters which have been referred to the Inter-Colonial Council would of necessity be reserved, and would not form part of the business to be discussed by the Legislative Council. But we do express the hope that at no distant date the control of the S.A.C. might be, shall I say, "referred back" to the Parliament of the country? If such important matters as finance of the Colony, the native administration, and a matter in which we all feel a deep interest—Asiatic legislation—were to be reserved, I have little hesitation in saying that a Constitution of that kind, and with such reservations, would not be received with anything like favour by the people of this Colony. I go further, and say that the reservation of

such important matters would possibly make such a Constitution almost unworkable. There is another point in connection with one of the resolutions in which it pointed out the disability under which naturalised aliens suffer in this Colony. I refer to the disabilities suffered by aliens naturalised in other British Colonies. This matter has been before the public for two or three years, and we understand there is some constitutional or legal question involved, but it is felt it is a great hardship for persons living for 10, 15, or 20 years in the Cape Colony or Natal, to be deprived of their votes. It is felt a very great grievance indeed to deprive them, as they are deprived, as the law stands at present, from exercising the privileges of the franchise in this Colony. With these remarks I beg to express the hope that we have been able to convince you of the importance of the principles involved in the five resolutions put before you, and to express the hope that we may be able to convince you that it is desirable that these principles should be introduced into this Constitution, and that you may see your way to convey the views we have expressed, the views of a very important section of the community, to the Secretary of State for the Colonies, in whose hands this Constitution, we understand, now is.

Lord Milner's Reply.

Lord Milner said . . . I do not think it is a matter of particular importance what my personal views are on these several points, inasmuch as, fortunately for me, it does not rest with me to decide. What is of more importance is that the Government at home should be acquainted with the opinions of the new Constitution. Of course the variety of opinions is infinite, it would be impossible to consider them all—when I say the various opinions I mean those of any considerable bodies of people. I shall, of course, report to the Secretary of

State the resolutions which have been put before me to-day, and the substance of the arguments by which they are supported. I have been doing my utmost for a long time past to elicit opinions, not in one quarter, throughout the Colony, on this important subject, in order that I may discharge my principal duty in this matter, that is to fully and truly report the real state of feeling here. I have got a great deal of assistance in my efforts in this direction, and a meeting of this kind is of great assistance to me in carrying out that duty. As I say, my principal business in this matter is to report your views and arguments by which they are supported, and there I might leave it. If I go on to say a word or two upon the special points which you have raised, will you regard what I now say as not in any sense authoritative, not declaratory of what is going to be done, as I do not know it myself, but as merely directed to throw a little more light on the points which have been touched upon, and which are exciting so much public interest?

Will you regard this, my contribution, as that of a fellow-citizen, and not as that of one who is laying down the law as an official, especially as it is not in my power to decide? In the first place, I fully welcome all representative expressions of opinion, and I attach a very great deal of importance to what has passed to-day, because of its exceedingly practical character. The community, I fear, is rather divided at this moment—perhaps in almost equal parties—on the question of what is called Responsible as against Representative Government. I am sorry for this division, for it turns men's thought from things which they have power greatly to influence to matters which, I think, no discussion here can at the present time influence. Apart entirely from any personal opinion, I have received instructions from the Home Government to make what

suggestions I could, and to throw all the light I could upon the execution of what is their settled policy, which is to introduce here a Representative Legislature, elected by the people, with an Executive which will continue for a time to be appointed by the Crown. I understand that that is what is before us. These are my instructions—to throw any light I can upon the question of the composition of that Legislature and the manner of election. I am fully at liberty to receive any suggestions you can give me on these points, and they are a great deal of use to me. But to discuss the matter of the introduction of Responsible Government, or suggestions to that effect, that is to say, that the Legislature, which is still to be created, should at the first moment of its existence, proceed to appoint the whole Executive Government, suggestions to that effect, while they are entitled to all respect, seeing the influential quarter from which they come, are of no practical use for me at this moment, because they do not bear on the problem put before me.

I have been ordered, so to speak, to make plans for the construction of a coach, and everything which helps me to make the best coach possible is, of course, of real assistance to me and the Home Government. But it is of no immediate practical value to me to advise me how to build a motor car, because that is not what I am asked to do. Now the points which you have brought before me to-day are all connected with what I understand to be the present policy of His Majesty's Government, that is to say, the establishment of a popularly elected Legislature in this country, I hope that, whatever views we may hold as to the immediate introduction of Self-Government, they will yet, as good citizens, not refuse to apply their minds to the problem which is immediately before us, and which is not the establishment of what is known as complete Self-Government, but of a system which is intended to lead to it, and which I

believe will in a comparatively short space of time lead to it. That is what you have done to-day. Let me say a few words about the particular points brought forward in these resolutions. The first is "One vote, one value," and the single-member constituency. As far as I can gather opinion, it inclines very strongly on all hands to the single-member constituency. I should have no hesitation in telling His Majesty's Government that whatever might be my personal opinion on that point —and, personally, I have a preference for the three-member system, with the minority vote—there is no doubt an overwhelming body of opinion among all sections of the people of this country in favour of the single constituency. I should also be bound to say that as regards "one vote, one value," I think there is a very great division of opinion. You in this room are all strongly in favour of it, and the arguments in favour of it are very strong. Whether they are of overwhelming strength, whether they will be so regarded by His Majesty's Government, I really cannot attempt to say. . . . I should like to be in a position—putting my own views entirely aside—to say to His Majesty's Government, "This or this is the generally accepted view in this Colony." With regard to one vote, one value, I really cannot say so. . . . It may be . . . that the result will be a compromise. On the other hand, as regards automatic redistribution, I gather that there is more unanimity of opinion. I have not yet met anybody who is opposed to it. I have met a considerable number who think that it is a difficult thing to put into an Order in Council. . . . We have so many instances before us of the effects of leaving the redistribution of seats in a growing country to be for years the perpetual battlefield of political parties, I think it is a prospect so discouraging that I hope it may be averted, and that it may be possible for His Majesty's Government to put into the Constitution

of this country, as now framed, provisions which will make that unnecessary, and which will enable growing centres of population to obtain either representation, or additional representation, by some recognised legal process, without its becoming in every case the subject of a party fight. But I am bound to say that I think the proposal will take them rather by surprise at home. I think it will have precedent, as far as Constitutions introduced by Order in Council are concerned, and perhaps I may add, *vis inertiae* against it, and I believe if a majority of people here are really anxious to have it, that a strong expression of public opinion here would be requisite to carry it. That is my own impression. It is a difficult thing to do; it is a troublesome thing to do; and it is as far as these home-made Constitutions are concerned, a novel thing to do. . . . As regards qualification, I am glad to think there is a very wide amount of consensus of opinion, and that the views expressed here to-day not only represent the views of the powerful association to which you belong, but of people of all classes and races. I am not now referring to that special principle of preserving, if I may say so, the franchise rights of the former burghers, a proposal which has much in its favour, though I am not prepared to express any absolute opinion about it. I am rather referring to the general idea that the franchise should be what is called a democratic one, that while there should be a property qualification, or income qualification, or alternative property and income qualifications, the figures should be so low as practically to include the whole white population, which is independent, which has any regular independent means of support. . . .[1]

[1] Lord Milner proceeded to consider alternative methods for the composition of the Legislature and the possibility of appointing certain elected members to the nominated Executive. His statements were entirely hypothetical and are therefore not reproduced.

I am not quite sure that I appreciate the difficulty which seems to occur to some people on the matter [of the reservation of powers], when, for instance, it is asked whether it is proposed to exclude Asiatic or native legislation from the powers of the Legislative Council. . . . You have got a Legislative Council at present which deals with these matters. The present Legislative Council can pass a law about natives or about Asiatics. The change which is proposed is not, as I understand, in the powers of the Legislative Council, but in its composition. Instead of consisting of nominees it will consist of elected representatives of the people. It would be odd, and I don't think it has occurred to anyone, to use the moment of this change in order to restrict the powers of the Legislative Council. It has at present powers to legislate on any subject concerning the interests of the Colony. I have not the least doubt that the change in its Constitution will not lead to any reduction of its powers. The restriction upon popular control which at present exists, does not take the shape of any restriction upon the powers of the Council, but it depends upon the fact that the members of the Council are nominees and not elected. The powers of the present Legislative Council are as wide as possible, and I do not anticipate that the powers of the differently composed Legislature will be any less wide. You will remember that legislative proposals with regard, for instance, to the regulation of Asiatics were before the present Legislative Council. If I remember rightly, the law was not actually passed, but there was no doubt about the authority of the Council to pass a law with regard to native administration, or a law regulating the finances of the country, as in fact it does when it passes the Appropriation Bill. All these powers exist at present, and I do not see that there is any likelihood of these powers being in any way curtailed.

There is one restriction which always exists in any Colony, whether it be a Colony under Crown Colony Government or with representative institutions, or with full self-government. That is, of course, the ultimate power of the Crown to veto any measure. That would no doubt continue. It is universal, and I should like to call attention to one point for the illumination of the public, who seem to be suffering under some extraordinary delusions with regard to it. And that is that the power of veto resting in the Crown is absolutely the same, whether you have Responsible Government or whether you have Representative Government. You do not get rid of the veto by having responsible Government. You do not increase the veto by having Representative Government. I say this especially with regard to such questions as native affairs or Asiatic affairs.

It is assumed, I think rather unjustly, that the Government at home is anxious to interfere with the people of the Colony in dealing with these matters in the way which seems to them best. Except as regards the acquired rights of British subjects, which the Home Government regards itself as the trustee of, I have never seen any disposition since I have come here on the part of the Home Government to try and override public opinion of the Colony with regard to these matters. However, that is a side point. What I wish to make absolutely clear is this : The difference between Representative Government and Responsible Government is roughly this, that under the former the Executive is irremovable by the Legislature, and under the latter the Legislature itself appoints the Executive. That is the principal effect of the difference between the two systems. Under the one system, the Legislature practically elects the Government, and under the other it does not. But, as regards the legislative

powers of the Assemblies, the position is absolutely the same. The legislative power is no less in a Representative Assembly which does not appoint the Executive than it is in an Assembly which also appoints the Executive. Neither is the veto of the Crown any different under the two systems. If a measure was to be passed here dealing either with Asiatic affairs or with native affairs which, whether the Home Government approved of it or not, appeared to it to be a measure which infringed the rights of British subjects, and which therefore the Home Government ought to veto, it would equally veto it under Responsible Government. As far as dealing with native affairs or Asiatic affairs is concerned, you will have exactly the same powers under the one system as under the other.

LIV. Extracts from Speech of Mr. E. P. Solomon, President, at the Inaugural Dinner of the Transvaal Responsible Government Association, Johannesburg, 14 January 1905.

[Parl. Pap., Cd. 2479, pp. 24-31.]

From the *Transvaal Leader*, 16 January 1905.

In dealing with the toast Mr. Greenlees has proposed to-night, it will be necessary for me to explain to you the objects of our Association. And in doing that I shall have to criticise, or rather compare our objects with the objects of another Association—the Progressive Association, or what I call the Retrogressive Association. (Laughter.) Our objects are as follows: "To advocate the immediate establishment of Responsible Government in the Transvaal for the following reasons: (1) That political stability and contentment can only be assured by the full admission of the principle that the wishes and the interests of the people of this Colony must prevail, subject only to the highest Imperial considera-

tions. (2) That the growth of a vigorous independent spirit in political life will inevitably be retarded by the establishment of any system short of complete Responsible Government." There you have in a few words not only what the object is—the immediate introduction of Responsible Government in this country, but the reasons, in very small compass, why we want it. Now let us see the platform of the Progressive Association, and let me say here that when I saw that association had formed, I rejoiced, I was glad because your political life in this country cannot be very sound unless you have opposition. The very essence of Responsible Government is opposition. By opposition you get out from your opponents everything that is necessary to make political life stirring in this country. Now, gentlemen, let me tell you that in regard to these planks in the platform of the Progressive Association, we are at one with them on, I think, five. I think they have altered that clause about the flag. They have crossed out "flag" and changed it to "maintain the principle of Imperial union." On that point we are at one with them. . . . The next was, "To uphold the principle that all voters shall have the same privileges and their votes the same value." We agree with that. . . . The fourth is, "To establish a firm and just Asiatic and native policy, in accordance with Transvaal ideas." That is our plank, not theirs. I will tell you why. They dare not, under the representative form of government, claim that right without the consent of the British Government. (Hear, hear.) With Self-Government, with Responsible Government, we have the right. (Applause.) They have to ask Downing Street for permission before they can claim that. No. 5 is, "To support any measure that tends to make the Transvaal a white man's home." Who is opposed to that in this room? No one. "To oppose interference in domestic affairs

by party politicians elsewhere." That is ours. How dare they ask for that in their platform, for once we have Responsible Government in this country, home politicians dare not interfere. If you have Representative Government in this country, your laws will be subject to veto at Home—I am coming to the question of veto as Lord Milner interpreted it later on—but when we have Responsible Government we dare them to interfere with us unless it trenches upon Imperial interests. That is the only and sole right they have. When we pass laws in this country under Responsible Government which are opposed to Imperial interests, then the Imperial Government steps forward and says, "Stop." They have never attempted it in any other country, and never would in this country. No. 7 is, "To restrict the franchise to white people only." That is ours. Now we come to the second heading on their platform—Representative Government. What do they mean by "Representative Government"? Has any man in this association ever dared to come forward and tell us what form of Representative Government they want? They dare not. They disagree amongst themselves as to what form of government they want. . . .

Responsible Government is also Representative Government—it is pure Representative Government. The distinction between Responsible Government and what they call Representative Government is in this essential principle: that the representative form of government, as they call theirs, is associated with an irresponsible Ministry. With Responsible Government, which is also a representative form of government, you have a responsible Ministry—responsible not only to Parliament, but to the people, or, I should say, to the people through Parliament. And when the Government under Responsible Government do not carry out the wishes of the people, they go, and the

majority in the House elect a new Ministry. What have you with what they call Representative Government? You have a Ministry elected by the Crown, and that Ministry retains office as long as the Crown pleases—"subject to the pleasure of the Crown" are the words, I think. No matter what resolutions are passed adverse to their policy by members of the House, no matter how severe are the censures from the House on the Ministry, they retain their positions, subject to the pleasure of the Crown. You have no right to turn them out; they remain there probably for life. Don't tell me this is an imaginary idea of mine. I have lived in Cape Colony, where I saw that thing done. I saw under a representative form of government votes of censure passed, not once, but several times, on the last Ministry, and they simply kept their seats and defied Parliament and the people of the country. Is that the form of Government you want for this country? (Voices: "No.") . . .

Now we come to the question of the veto. Lord Milner, in an interview he had with the Progressive Party this week or last week, told them that the veto was the same whether it was under Representative Government or Responsible Government. Gentlemen, I do not want to put my views against a great authority like Lord Milner, but I tell you, and I tell him, that in theory he may be right but in practice he is not. (Applause.) The only time—as I have told you already—that the British Government interferes with measures passed in a House of Parliament where you have Responsible Government, is when they trench upon the rights of Imperial interests. I do not know of a single occasion in Cape Colony where there was interference since Responsible Government, but there were numerous cases when they had Representative Government. Where this Government is they do interfere.

Therefore in theory Lord Milner was quite right, but in practice he was entirely wrong. (Hear, hear.) . . .

The question we have to decide in this country is whether we can be ruled by Downing Street, influenced by politicians all over the United Kingdom, or whether we are going to rule our own affairs in this country. Whether the people of this country are going to be ruled by the people. I am told by men who don't agree with me: "Don't worry; there is practically no difference between us." I tell them that if they call that no difference, they don't understand the question. The difference is most vital in my opinion as to whether you men of intelligence are going to rule this country and pass laws without interference, or whether you are going to be dictated to from Downing Street by a number of politicians who don't know you, your affairs, or circumstances. (Applause.) . . .

Now we are told by Lord Milner in an interview, that "apart entirely from any personal opinion, I have received instructions from the Home Government to make what suggestions I can, and to throw all the light I can upon the execution of what is their settled policy, which is to introduce a form of Representative Legislature elected by the people with an Executive which will continue for a time to be appointed by the Crown." That evidently is the form of Government they are going to give. If that is what the British Government is going to give us it will not meet with the requirements of this country; it will not meet with the approval of the majority of the people of this country. (Applause.) I go further and say that if that measure is forced upon us it will engender the most bitter feelings in the community, and will cause disruption amongst the English portions of the Transvaal. . . . There will be disruption amongst the English section of this community, and there will be the alienation of

the Dutch population. And once this disruption and alienation occurs, it will take years to bring them into the position they formerly occupied. (Applause.) Are these men going to take this responsibility for the sake of one solitary year? I think not.

[The speaker then went on to quote the experience of Cape Colony in its agitation for the grant of Responsible Government and to compare South Africa with Canada at the time of Lord Durham's reforms.]

It is true that Durham's hopes in one sense were never realised: the English and the French races have never fused into one. It is impossible to destroy a white nation, and the French of Canada retain their language, their religion, and their cherished customs. But the two races, sensible of their own common dangers, and not unresponsive to a large hearted policy, were able to live in amity until in the fulness of time the legislative union of the two Canadas gave way to the Great Federal Dominion of 1867. . . . That was the result—although the two nations did not fuse into one, they worked together harmoniously. The bitter feelings and enmities were suppressed, and Canada progressed and became a Dominion. That was the work of a statesman like Durham. (Applause.) . . .

I will now deal very briefly with Responsible Government. I have tried my best to find out what are the real objections to its introduction. . . . The only two I was able to find out were: first, fear of the Boer; and, second, that we had not the men in this country. . . . But why are we afraid of the Boer? Have we not Lord Milner's remarks, backed up by Sir Arthur Lawley's, that they have maintained their part of the bargain? The men who say they are afraid of the Boer do not know the Boer; they are men who come to this country and know nothing about it or its people. . . . My advice to those men is to get nearer to the Boer, to

become acquainted with him, to speak his language, and then they will find out that this dreadful creature is a thinking human being standing by you—(applause)—a human being with the same aspirations, the same hopes, and the same feelings as you have. (Applause.) That idea of getting closer and closer to the Boer was aptly illustrated by a Welsh clergyman. He said: "I went out for a walk one day, and on a distant hill I saw a monstrous creature. As I approached it and got nearer to this object, it assumed the form of a human being. I still approached it, and when I came up to it I found it was my brother." (Laughter.) Let these men who fear the Boer carry out that idea. Let them get nearer to him, and the monster will disappear, and he will assume the form of a human being: let them get close to him, and they will find him a man with the same feelings as themselves. (Applause.)

[Mr. Solomon then gave instances to show that the Transvaal contained many men of first-rate ability who were capable of making Responsible Government a success. He closed his speech by making certain concrete suggestions as follows:—]

I suggest that all sections, viz., the Dutch, the Progressives (including the Chamber of Mines, because it is not a political party)—("Question" and laughter)—the Farmers' Association, and the Responsible Government Party, that these four sections should be asked to join a powerful deputation to Lord Milner to place the following position before him:—

(*a*) All sections are in favour of Responsible Government.

(*b*) One section wants it delayed from periods varying from two to five years; that being so, then—

(*c*) To avoid at the very commencement of our political life dissension and bitter feelings which will be caused by the several sections pursuing their respective courses at the forthcoming election under Representa-

tive Government with the view to secure or oppose Responsible Government being introduced, the deputation to suggest to His Excellency

1. That the proposed Constitution for Representative Government be cancelled.

2. That the present Constitution shall continue, and the Legislative Council appointed under this Constitution shall meet in June and transact the business, as usual, but prior thereto, the Governor shall make a change in regard to two members of the present Government.

3. Immediately after the session of the Council shall have closed, a new Constitution shall be granted to this Colony conferring the franchise on all sections of the white inhabitants of this Colony; that a fair and equitable division of electoral districts be made and that such electoral districts shall be fixed by a Commission, at which their Excellencies the Governor and Lieutenant-Governor shall be entitled to take part, and which shall in addition consist of—

(*a*) The Chief Justice and one other Judge to be selected by the Judges themselves.

(*b*) The Attorney-General and the Colonial Secretary.

(*c*) Two representatives each from the Progressive (including the Chamber of Mines), the Dutch and Responsible Government Parties.

(I suggest that if you take this out of the realm of politics you will have a lot of men, honourable men without axes to grind, men representative and respected throughout the community, who will fix fairly and equitably the districts.)

4. That the proposed new Constitution shall be promulgated as soon as possible after the close of the next session of the Council, and at any rate not later than the end of December, 1905; that the present members of the Government as reconstructed shall continue in

office until the elections of members of the new Parliament under the new Constitution.

5. That after the Commission for fixing the electoral districts shall have reported on the boundaries of electoral districts, voters' lists shall be made out and framed in the usual manner. Immediately after the completion of the voters' lists the election under the Constitution for self-government for the Colony shall take place.

6. After the Members of Parliament shall have been elected, the Governor shall from those who have been elected select one who in his opinion has the confidence of the majority of the elected members and shall require him to form a Ministry, [which] when formed shall take office and the members of the present Government shall *ipso facto* cease to hold office.

7. Parliament shall meet as soon as possible thereafter, merely for the purpose of passing the Estimates and voting supplies, and the House shall then be adjourned to, say, the beginning of 1907, to enable the Government meanwhile to form their policy and to prepare any measures they desire to introduce, and shall re-assemble at such early date as His Excellency, with the advice of the Government, shall fix.

Under the scheme now proposed the advantages to be gained are as follow:—

1. You change immediately the personnel of the present Government by appointing two who have the confidence of the public in place of two who have not secured, during their tenure of office, such confidence. This will, for the time being, satisfy a large section of the community.
2. You remove at once any prospect of a representative form of Government being granted to this Colony by the continuation of the present Constitution for a time and the postponement of Responsible

Government also for a time, but with a certainty of securing it in the near future.

3. Having obtained Responsible Government we have postponed the ordinary parliamentary workings under that system for about two years from the present time, so as to meet the views of the Progressive Party, although in the meanwhile the Ministry in power will, under that form of Government, have the full and absolute confidence of a large majority of the people of this Colony.
4. You furthermore secure the co-operation of all sections of the people in the future, enabling them to work together harmoniously for the good of the country. Differences of policy will, of course, arise and must arise to give effective working to the principle of Responsible Government.
5. You secure the goodwill of the Boers, you prevent the disruption of the English section which must, at all hazards, be avoided, and you commence your political life in this country harmoniously, without discord or friction.

The scheme as suggested by me is by no means perfect. I have simply outlined the general principles to guide us in coming to an understanding, and I am prepared to consider modifications on the lines of the proposed scheme which I have sketched out. It will be, therefore, for the different sections to consider this most carefully, and if they feel disposed to join in this deputation to Lord Milner a meeting can be arranged for, when all the different points can be discussed and settled before such deputation meets his lordship. It will be seen, further, from the foregoing that if any particular section obstructs this proposal and stands out of it in order to defeat its being carried into effect, that section must

take the consequences of any bitter feeling and disruption which will take place between different sections of the English community and the alienation of the Boer people, because it is believed by me that unless all the sections join in it is useless to approach Lord Milner on the subject. (Applause.) . . .

LV. Extracts from Speech of Mr. J. W. Leonard at a Meeting of the Transvaal Progressive Association, Johannesburg, 19 January, 1905.

[Parl. Pap., C. 2479, pp. 43-52.]

From the Johannesburg *Star*, 20 January, 1905.

For one great principle, that must be embodied in that Constitution, there was a unanimous vote last night. The majority of the meeting wished to go further. It was evident from the frequent interruptions that a large number of those present were desirous of obtaining an expression of opinion as between Representative and Responsible Government. The promoters—the Johannesburg Branch of the Transvaal Progressive Association—called the meeting for the express purpose of gauging public opinion on the one point, and they were not prepared to go further. The speakers were unfortunately frequently interrupted. . . .

Mr. Dodd moved the first resolution:—

> That this meeting desires to place on record its firm conviction that no Constitution will be acceptable to this Colony which does not contain provisions establishing at the outset and maintaining for the future equal power and equal privileges for each voter. . . .

Mr. J. W. Leonard said that:—

A large number of them had come there that night burning with enthusiasm to discuss the question whether they had Responsible Government. (Hear, hear.) Let him say at the outset that, although he might differ very

slightly in some details from those who were in favour of immediate Responsible Government, he was not going to be the other indispensable party to that quarrel. . . . The side issue that night was whether they were to have Responsible Government. (Interruption.) . . . There seemed the haziest, vaguest opinion as to what was meant by Responsible Government. Responsible Government was a Government by Legislature first and last. First, it was a Government by the Legislature. The difference between Responsible Government and Representative Government, that was not guided by a Responsible Ministry, was that in one case the Ministers went out of office at the vote of the House, and in the other they did not. Well, anybody who was going to challenge such an elementary statement showed conclusively he was ignorant of the very elements of political knowledge, and it was because he wished to disabuse the minds of even the smallest minority in the room as to any error as to the exact meaning of these words that he ventured to take up the attention of the vast majority, who, he believed, did understand. Before they could have Responsible Government, they must have legislative power established on a certain basis, and the basis on which that was established was called their Constitution. And the responsibility or want of responsibility of Ministers to Parliament had for the moment nothing whatever to do with the case. The Constitution which they were going to get within the next three months, or one month—he did not know when it was to be given —was the Constitution which the country would be governed under, whether they had a Responsible Ministry or not. That was their cart, and it had to go behind the horse. (Applause.) Let him put it to those members of the audience who wished to give them Responsible Government that they would discuss these things afterwards.

How would they feel if they had Responsible Government granted to them under a Constitution which gave Johannesburg two members out of fifty? He put an extreme case. He knew that no such preposterous idea had ever occurred to a Constitution maker. Supposing the Witwatersrand, supposing the population of Johannesburg would be limited to five members in a House of fifty, and Responsible Government was tossed to them as a gift, what would they do with it? . . .

What they were discussing was the Constitution under which they had got to live and to thrive if they could. He asked them to bear this in mind, because, after all, the very first essence of the case was to see what their Legislative Constitution was before they started any form of Government, because the exact method under which their Executive was going to be elected, the exact condition under which it was to carry on that administration, must, in the necessity of things, be settled after their Constitution was once fixed.

Their Legislative Constitution was going to be fixed now, once and for all, by the people who were making their Constitution for them, by the Imperial Government, that held the destinies of this country in the hollow of its hand. (Hear, hear.) Immediately the Home Government had declared its intention to bestow representative institutions upon this country, some of those present would say, "Good; we will take representative institutions, but we want to take them plus something, we want them with the arrangement that prevailed in other countries, in the Cape, in Canada, and Australia, and elsewhere, with the arrangement that the Executive should only hold office during the pleasure of the House." He was going for the moment to concede to them that he agreed with them. (Hear, hear.) . . . And then he was going to say, "Will you go one step further and say with me that far more important and far more vital and far-

reaching is the question of how you are going to constitute the Legislature that is going to govern your Ministers?" (Applause.) Would they have their Ministers appointed first and the Legislature, to whom they were to be responsible, constituted afterwards? Was that not putting the cart before the horse? (A voice: "Let's see something of the cart.") The cart was the State, that had got to be pulled through the mire and out of it, and the responsible Ministers were the people to whom was entrusted the duty of pulling that cart. (A voice: "Who elects the Ministers?") Here, again, he was face to face with one of those manifestations of innocence upon the subject of Responsible Government. (Laughter.) The gentleman down below, who, he was sure, bestowed an intelligent attention on the subject, asked him who elected the Ministers. Would it surprise him to know that if he got Responsible Government to-morrow morning every Minister would be appointed by the Sovereign of the country. ("No, no.") He had a sort of prescience when he came there that he would find that sort of—he did not like to use the word ignorance in any invidious sense—he would perhaps rather say that sort of want of knowledge of fundamental constitutional principles. The Minister who was the Prime Minister of Cape Colony to-day, the Minister who was Prime Minister of England, and the Minister who was chief of the Executive of the Transvaal, were all on one equal footing in that respect. (Voices: "No, No," and "Yes.") They were all appointed by the Sovereign and they held office during the pleasure of the Sovereign. ("No, no," applause, and interruption.) He really did not think that he had come there to lecture upon constitutional principles—(laughter)—but he was quite prepared if they wished to go on. He wished to point out to them that responsible Ministers, and Ministers who were not responsible to

the Legislature, were equally appointed by the Crown, and were equally King's Ministers. The only difference between Responsible Government and Representative Government, where Ministers were not responsible to Parliament, was this, that in the one case the Crown could keep in office Ministers who had lost the confidence of the House; and in the other case, it was an unwritten law of the Constitution that when Ministers had lost the confidence of the House they tendered their resignation to the Government. He hoped that he had killed that fallacy, at all events, that their Legislature was going to appoint their Ministers. The Legislature had no constitutional machinery by which it could appoint any Ministers; as a matter of fact he did not know that the Legislature had any constitutional machinery for appointing anything more than a doorkeeper, and an office boy, and a clerk. He had forgotten for the moment that it did appoint a Speaker.

That being absolutely the correct view of the constitutional position, was the truth of it not borne in upon them convincingly and irrefutably that the first consideration when they were making a Constitution, was to see how they were going to distribute their political power. It was upon that battlefield that every single particle of political strife had been manifested during the last century and more. In England it was upon this battlefield that they saw political strife raging. In South Africa they had seen it for years. It was upon that battlefield that they saw all the occurrences in Canada in 1837 and afterwards, and that bitter strife between different sections of the population. This was the vitally important matter they had to consider; and it was because they recognised that, as the far-reaching, all-embracing issue, that they had come there to ask them to ignore for the moment all divisions of opinion as to when and where and how responsibility of Ministers

was going to be dealt with; to ask them to establish upon true and firm principles of legislative machinery the legislative Constitution which must be the bottom and foundation of the Constitution of this country for all time, no matter what particular form of administration was ultimately introduced. The gentleman down below, whom he would dearly love to meet in single combat—(laughter)—though all in good part, had invited him to give the reason of the faith that was in him on the question of Responsible Government. He could oblige him, but in doing so he would be violating the platform on which he stood, and would be departing from the agreement with which they came there—to avoid subjects of strife. The inhabitants of the Witwatersrand and the British inhabitants of the Transvaal must not have a dissentient voice amongst them. . . .

Lord Milner had told them that, even though they made their voices heard, they would find precedent and inertia against them. As to precedent, inertia, or mere indifference to their welfare, and wants, mere sluggishness and political apathy, he did not think they would allow the Home Government to rest in peace or allow it to fail them in a proper settlement of a question like that, which was the very essence of prosperity in this country. When they came to precedent, of course there would be no precedents to be found in England for this sort of thing. The British Constitution was like the historical "Topsy"—it "growed." It was bristling with all sorts of anomalies, inequities, and inconsistencies, and were they going to be bound by a slavish adherence to the British Constitution? ("No.") Were they going to be deprived of the elementary rights of men because in some particular instance the British Constitution did not provide for them? (Applause.) What had they got to do with the lack of precedent in the British Constitution, or with the lack of precedent

in the British Colonies, founded in times past when everything was done in a slavish imitation of the British model? Let them rather look to newer Legislatures, newer constitutions. Let them go to Canada, Australia, and America. Let them go to America, where—("No!" and a voice, "Let us stop here!")—he wanted to stop here, too. Let them follow the example of men who were not afraid to do a thing because their grandfathers had not done it before them. (Applause.) They found, in the British North American Act of 1867; they found, in the Act embodying the Australian Commonwealth; they found these elementary principles recognised everywhere, so that when it came to be a question of precedent they had precedent of the very highest order. He was not afraid, for one, that they were going to be overruled by precedent. They must get it here, and they (the people) must back them up. He had searched in vain for any argument that could be advanced against them, and had not found one. As to the argument that the Dutch were likely to outvote the British, or the British were likely to outvote the Dutch, he hated to hear these suggestions, and this cursed thing raised between the English and Dutch, and he hoped it would not exist in anything like the aggravated form so many men anticipated. (Applause.) He had far too much faith in the common sense, in the traditions, in the conservatism of the Dutch character to suppose they were going to cut off their noses to spite their faces; that they were going to make hell-broth of this country's politics to please those who would play upon racial feelings. (Hear, hear.) The question was not whether the Dutch were going to outvote the English, or the English to outvote the Dutch. If the curse were to be put upon the country that their politics were to be run on racial lines, some party must outvote the other. They could not have a dead level of equality of votes, and, if they were going to run their

politics on racial lines, one side must preponderate. Now, which side was going to preponderate? ("Neither!") Well, he was assuming that the poisonous thing was to be introduced: which side was going to preponderate? Those who opposed them would say that the Dutch must preponderate simply because they were Dutch. Those who were with them would say they did not care twopence which side preponderated; that side should preponderate which had the largest number of voters. (Hear, hear.) Could anything be fairer than that? He could see by the gestures and demeanour of his hearers that they were not going to be led astray by any fallacy, but that they were going to assert the vital principle that equality was equity. . . . (Loud and prolonged applause.)

The Chairman then put the resolution, which was carried, there being only one dissentient.

LVI. Extracts from Report of the Inaugural Meeting of the Boer Organisation of the People (Het Volk), 28 January, 1905.

[Parl. Pap., C. 2479, pp. 58-62.]

From *Leader*, 30 January, 1905.

Pretoria,

Saturday, [28 *January*, 1905].

This afternoon, at the Empress Theatre, Pretoria, a crowded meeting, summoned by the Head Committee of the Boer Organisation of the People (Het Volk), was held to hear and approve of the statutes of the organisation as drawn up by the committee. The audience filled the theatre to the doors, and many for whom there was no room stood in the entrances and footways at the sides of the auditorium. The first portion of the meeting was entirely occupied with a discussion of the methods of representation on the committee of Pretoria town and district, and it was only when General Botha rose to

make a stirring speech in favour of Responsible Government that the assembly showed any extraordinary signs of enthusiasm. Immediately after the General sat down, a resolution in favour of "complete Self-Government" was carried unanimously amid ringing cheers. The speeches of Mr. E. Esselen, General De la Rey, General Beyers, and Mr. A. D. Wolmarans, which followed, appealed to an increasingly enthusiastic audience, and a second resolution, asking the Government to include the Orange River Colony in any measure ceded to the Transvaal was also adopted amid loud applause. The proceedings were closed with cheers for the chairman and the generals on the platform. . . .

STATUTES OF THE ORGANISATION.

The secretary then read the Statutes of the Organisation of the People (Het Volk) as follows:—

1. The object of this association is to bring about harmony and mutual co-operation of the population of the Transvaal, and to advance the general prosperity and progress of the country and people.

2. This association, constituted by resolution of the People's Congress of 24th May, 1904, consists of a Head Committee elected by that Congress, and of which Louis Botha (chairman), S. W. Burger (vice-chairman), J. H. de la Rey, C. F. Beyers, Ewald Esselen, A. D. W. Wolmarans, and J. C. Smuts are the members.

Further, of District Committees and Ward Committees, which have as yet to be elected in accordance with these Statutes.

3. Two members of the Head Committee shall retire annually, beginning with Messrs. A. D. W. Wolmarans and J. C. Smuts, and so on in rotation. They are, however, re-eligible. The members of the Head Committee shall be elected by a majority of votes at the yearly Congress. The Chairman of the Head Committee,

who is at the same time chairman of the People's Congress, shall be elected by this body. He retires every three years, but may be re-elected.

4-7. [Constitution of District and Ward Committees.]

8. Every year a People's Congress shall be held. The yearly Congress shall consist of: (*a*) The Head Committee; (*b*) Delegates to be elected by the District Committees, so that every ward has one delegate. The date and place of meeting of the People's Congress shall be fixed every year by the Head Committee, and notice thereof shall be given to the different District Committees. District Committees shall, immediately on receipt thereof, elect the delegates and forward the names of those elected to the Chairman of the Head Committee before the meeting.

9-10. [Duties of District and Ward Committees.]

11. The duties of the Head Committee are: (*a*) To supervise the different subordinate committees; (*b*) To convene a People's Congress at least once a year; (*c*) To call a special meeting at the written request, or with the written approval, of at least five District Committees; (*d*) To call a special Congress, if circumstances demand it; (*e*) To bring to the notice of the Government, when desired, matters of general interest, and to look after the same; (*f*) To take such steps as may seem necessary under the circumstances, including the calling of conferences elsewhere, concerning the interests of South Africa.

12-13. [Minor provisions concerning Committees.]

14. If the Head Committee is of opinion that the committees in one or more wards or districts are made under influences which are detrimental or hostile to the principles or interests of this Association, the Head Committee may dissolve such committees by resolution, and take such steps as it may deem necessary.

15-16. [The Head Committee shall endeavour to

compose differences in the Association and its decision shall be final.]

17. As members are admitted all white persons who are permanently domiciled in the Transvaal, have completed their sixteenth year, adhere to these rules of association, and sign the following declaration :—

"The undersigned . . . . . hereby declares that he will support the 'People's Union,' and binds himself to faithfully observe the obligations connected with its membership." . . .

18. The agenda of the yearly People's Congress is made up by the Head Committee, and shall consist of such subjects as the Head Committee wish to bring forward of their own motion, and such further points as the District Committees send in, at least one month beforehand to, and subject to the approval of, the Head Committee.

19. These statutes may be altered or amended by resolution of the People's Congress, or by the Head Committee, subject to confirmation by the People's Congress.

Any alteration or amendment by the Head Committee shall be of force till the next meeting of the People's Congress.

[The Chairman stated that the statutes had already been approved by the Head Committee and were not for approval or disapproval by the meeting.]

The [District Board and Arcadia Committee, etc.] having been elected, the Chairman then addressed the gathering. . . . [He said :—]

They would probably have noticed from the newspapers that there was going to be a great change in the Government of the Transvaal, and he was being asked continually if the Boers would be satisfied to co-operate with that Government. By the document which they signed at the declaration of peace they were tied hand

and foot. That document prescribed the future conditions of the Transvaal, and it was a document which Mr. Chamberlain had described as the Charter of the Boers. Whatever happened in the Transvaal they must never forget they were bound by that document signed at Vereeniging. They had accepted in that document the flag and the authority of Britain over them, and he told them honestly that his intention was and always had been that they as a people should faithfully fulfil the obligations which they had entered into in the treaty of Vereeniging. When they spoke of organisation and future conditions of the country there was not the slightest suspicion that they were disloyal.

From the day peace was signed the Boers had clearly shown that they loyally obeyed their obligations. Yet they read in the newspapers that Responsible Government could not be granted because the Boers could not be trusted. In regard to that he had only to say that when a group of people like the Boers, after laying down the arms that were so dear to them, had during the two years that had passed done nothing beyond their rights, he thought the people who said they could not be trusted, were stirring up muddy waters. The Boers had only one purpose, and that was to stand with outstretched hands and ask the co-operation of the British people. Their principles embraced nothing less than co-operation and amity. They were prepared to accept any responsibility on their shoulders. (Hear, hear.) . . . They were entering the future; the flag question was finished for all time. They had accepted British domination, and would accept any responsibility that would extricate the country from the muddle it was in. They had nothing to do with any racial question; the man who to-day stood on a platform and discussed racial questions was mad. They were going to form in South Africa a great nation of all the white people who lived in it. (Applause.)

If the Imperial Government showed its confidence and trust in them, he was assured the Boer people would carry with honour the trust placed in them. But if they expected the Boer people to be loyal, they must be loyal to the Boers. Referring to Responsible Government, he told them that Representative Government with a nominated Executive was the shadow without the substance. It was a form of government which should never have a place in South Africa—(applause)—and he said honestly that he could not advise the Boer people to accept it. They stood by the promise of the Peace Treaty that they should have Responsible Government in the Transvaal. The Boer leaders had not protested against the Government that existed to-day, but had advised Lord Milner not to change it. To-day they went further. They said South Africa was a large country, and contained an opening for great and good things. One of these good things was Responsible Government by the people. If the Imperial Government wished to do anything for the country, it must do something great, something good and deep, which would embrace the entire people not only of this country, but all the white people of South Africa. (Applause.)

No Half Measures.

If they would do nothing great, it would serve them nothing to tinker with small things. They had had sufficient experience of tinkering and half measures. The Boers had never gone to the Government and asked for a change, but they did say that if the change came, it must be a good and a great one. Half measures would not serve the people and would not serve the Imperial Government. . . . He would be glad if the meeting would pass a resolution which would say fairly and effectively that they could only content themselves with one sort of government and that was Responsible Government—(applause)—and that the same measure be

granted to the sister Colony, the Orange River Colony. To him it was painful and incomprehensible that [there] should be given to one State what was kept from the other. It was the greatest injustice, the greatest grievance; therefore a resolution should be passed that day. They had established their association, and they could proceed in a peaceful and constitutional way to obtain what they desired. (Cheers.) . . .

Mr. E. Rooth said he agreed perfectly, and he thought everybody would agree with what had fallen from the Chairman. He begged to move:—

"That this meeting of the Pretoria Branch of the Association 'Het Volk' having been informed of the terms of the Vereeniging Treaty, is of opinion that in the event of a change being necessary in the Government of the Transvaal, no form of government other than complete Self-Government should be established; and that notice of this resolution be given to Lord Milner." (Loud applause.) . . .

The resolution was then put and carried amid loud cheers.

General Erasmus suggested that the same resolution should apply to the Orange River Colony, seeing that that Colony was still bound by the Vereeniging Treaty, and he accordingly moved:—

"That this meeting of the Pretoria Branch of the organisation 'Het Volk' ('The People') requests the Head Committee to bring to the attention of His Excellency Lord Milner that the stipulations of the Vereeniging Peace Conference embrace both the Orange River Colony and the Transvaal; that it is the opinion of this meeting that the Orange River Colony should simultaneously be offered any change of Government which may be introduced to the Transvaal."

Mr. Oppermann seconded, and the motion was carried with acclamation.

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